
NEW YORK STATE **REGISTER**

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State agencies must specify in each notice which proposes a rule the last date on which they will accept public comment. Agencies must always accept public comment: for a minimum of 60 days following publication in the *Register* of a Notice of Proposed Rule Making, or a Notice of Emergency Adoption and Proposed Rule Making; and for 45 days after publication of a Notice of Revised Rule Making, or a Notice of Emergency Adoption and Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 60 days after publication of the notice, and comments must be accepted for at least 5 days after the last required hearing. When the public comment period ends on a Saturday, Sunday or legal holiday, agencies must accept comment through the close of business on the next succeeding workday.

For notices published in this issue:

- the 60-day period expires on January 31, 2021
- the 45-day period expires on January 16, 2021
- the 30-day period expires on January 1, 2021

**ANDREW M. CUOMO
GOVERNOR**

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NEW YORK STATE DEPARTMENT OF STATE

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NEW YORK STATE REGISTER

Be a part of the rule making process!

The public is encouraged to comment on any of the proposed rules appearing in this issue. Comments must be made in writing and must be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address are printed in the notice of rule making. No special form is required; a handwritten letter will do. Individuals who access the online *Register* (www.dos.ny.gov) may send public comment via electronic mail to those recipients who provide an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings.

To be considered, comments should reach the agency before expiration of the public comment period. The law provides for a minimum 60-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making, and a 45-day public comment period for every Notice of Revised Rule Making. If a public hearing is required by statute, public comments are accepted for at least five days after the last such hearing. Agencies are also required to specify in each notice the last date on which they will accept public comment.

When a time frame calculation ends on a Saturday or Sunday, the agency accepts public comment through the following Monday; when calculation ends on a holiday, public comment will be accepted through the following workday. Agencies cannot take action to adopt until the day after expiration of the public comment period.

The Administrative Regulations Review Commission (ARRC) reviews newly proposed regulations to examine issues of compliance with legislative intent, impact on the economy, and impact on affected parties. In addition to sending comments or recommendations to the agency, please do not hesitate to transmit your views to ARRC:

Administrative Regulations Review Commission
State Capitol
Albany, NY 12247
Telephone: (518) 455-5091 or 455-2731

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KEY: (P) Proposal; (RP) Revised Proposal; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (W) Withdrawal

Individuals may send public comment via electronic mail to those recipients who provided an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings. Choose pertinent issue of the *Register* and follow the procedures on the website (www.dos.ny.gov)

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RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Office of Children and Family Services

EMERGENCY RULE MAKING

Define “Non-School Hours” and “Those Periods of the Year in Which School Is Not in Session”

I.D. No. CFS-36-20-00001-E

Filing No. 731

Filing Date: 2020-11-16

Effective Date: 2020-11-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 413 and 415 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 390 and 410-x

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: This rule is necessary to clarify interpretation of Social Services Law 390 as to when school-age children may attend child care programs during the academic school year and align with federal guidance regarding when child care subsidy may be used for school-age children attending child care programs during the academic school year. As schools transition to hybrid and/or remote learning options in response to the COVID-19 emergency, some school-age children may still need adequate supervision on week days by child care programs. These regulations will clarify when this is allowable by defining “non-school hours” and “those periods of the year in which school

is not in session” to be any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning. To do so, this emergency rule changes Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York Parts 413 and 415.

The 2020-21 school year will begin in early September 2020, and the Office would like to clarify any confusion for providers about when school-age children are allowed to be served in child care programs.

On August 10, 2020, the federal Office of Child Care released additional guidance that clarifies that subsidy payments for child care provided to a school-age child during virtual and/or remote learning is allowed, provided the children are not physically required to be in school.

Subject: Define “non-school hours” and “those periods of the year in which school is not in session”.

Purpose: To include virtual and/or remote learning as in school hours.

Text of emergency rule: Parts 413 and 415 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) are hereby amended to read as follows:

Paragraph (21) is added to subdivision (d) of Section 413.2 of Title 18 NYCRR to read as follows:

(21) *Non-school hours shall mean any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning.*

Paragraph (22) is added to subdivision (d) of Section 413.2 of Title 18 NYCRR to read as follows:

(22) *Those periods of the year in which school is not in session shall mean any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning.*

Subdivision (ad) is added to Section 415.1 of Title 18 NYCRR to read as follows:

(ad) *Non-school hours shall mean any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. CFS-36-20-00001-EP, Issue of September 9, 2020. The emergency rule will expire January 14, 2021.

Text of rule and any required statements and analyses may be obtained from: Frank J. Nuara, Associate Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (914) 589-3096, email: regcomments@ocfs.ny.gov

Regulatory Impact Statement

1) Statutory Authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the New York State Office of Children and Family Services (Office) to establish rules, regulations and policies to carry out the Office’s powers and duties under the SSL.

Section 34(3)(f) of the SSL authorizes OCFS to establish regulations for the administration of public assistance and care within the state.

Section 390(1)(d), (e), and (f) of the SSL set forth that group family day care providers, family day care providers, and school-age child care programs may provide care for school-age children during those periods of the year in which school is not in session.

Section 390(2)(d)(i) of the SSL authorizes the Office to establish regulations for the licensure and registration of child day care providers.

Section 410-x(3) of the SSL authorizes the Office to promulgate regulations that establish minimum health and safety requirements for providers that provide child care funded under the New York State Child Care Block Grant.

2) Legislative Objectives:

To provide appropriate care for children, Social Service law empowers

the Office of Children and Family Services to promulgate any necessary regulations in order to ensure the care and safety of children in child care settings. Current regulations involve how care will be provided, and what subsidy can pay for, during non-school hours. Current regulations do not contemplate the COVID-19 pandemic, which would create the need for remote or virtual school options.

3) Needs and Benefits:

Under existing regulations, school-aged children are not allowed to attend child care programs (nor can subsidy funds be expended for child care) during the regular school day, when school is in session. However, this does not take into account the new challenges beginning with the 2020-21 school year, which include remote learning and/or hybrid learning. A school-age child attending school remotely may still need adequate supervision from a child care worker. The federal Office of Child Care released guidance on August 10, 2020 that supports subsidy being paid for child care during remote and/or virtual learning opportunities. This would codify that understanding into OCFS regulations. The 2020-21 school year will begin in early September 2020, and the Office would like to clarify any confusion for providers about when school-age children are allowed to be served in child care programs.

This rule is necessary to clarify interpretation of Social Services Law 390 as to when school-age children may attend child care programs during the academic school year and align with federal guidance regarding when child care subsidy may be used for school-age children attending child care programs during the academic school year. As schools transition to hybrid and/or remote learning options in response to the COVID-19 emergency, some school-age children may still need adequate supervision on weekdays by child care programs. These regulations will clarify when this is allowable by defining "non-school hours" and "those periods of the year in which school is not in session" to be any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning.

4) Costs:

No additional costs will be assessed on providers, the State, or the Office with this regulation. Families in receipt of child care subsidy will be able to use these funds for care provided to school-age children during the day when children are not required to be physically present in school.

5) Local Government Mandates:

No new mandates are imposed on local governments by these proposed regulations; however, districts will be able to authorize child care subsidy for school-age children during the day when these children are not required to be physically present in school.

6) Paperwork:

There is no new required paperwork; however, child care programs and families may choose to enter into an agreement that outlines the expectations.

7) Duplication:

The new regulations do not duplicate state or federal requirements.

8) Alternatives:

Without this regulation, some school-age children will be without supervision while participating in remote learning. The agency felt the regulations would provide the most clarity to the field, including local social service districts who are authorized to pay for child care subsidy during remote learning. Guidance alone would not be sufficient if the regulations were interpreted to not allow care during the school day during remote learning.

9) Federal Standards:

The regulations are consistent with applicable federal requirements.

10) Compliance Schedule:

Compliance with the proposed regulations would begin immediately.

Regulatory Flexibility Analysis

1) Effect on Small Businesses and Local Governments:

There are 16,200 small day care businesses in New York State that are comprised of day care centers, school age child care programs, family and group family day care homes, and one small day care center. There are 17,000 legally exempt providers. All of these programs will be affected by the regulatory changes proposed. Local government agencies will be able to authorize child care subsidy for school age children during the day when these children are not required to be physically present in school.

2) Compliance Requirements:

Child care programs are not required to provide child care services to school age children who are participating in remote learning. However, those that opt to provide such services must continue to comply with the application regulations for their child care program.

3) Professional Services:

Child care programs and local governments will not be required to use or employ any additional professional services as a result of these proposed changes.

4) Compliance Costs:

No additional costs will be assessed on providers with this regulation.

Families in receipt of child care subsidy will be able to use these funds for care provided to school age children during the day when children are not required to be physically present in school.

5) Economic and Technological Feasibility:

Programs choosing to support online learning or virtual learning opportunities will need to ensure they have any technology (i.e. device, internet capability) necessary to participate.

6) Minimizing Adverse Impact:

The Office does not anticipate an adverse impact and will provide technical assistance to providers regarding remote learning. Without this regulation some school age children will be without supervision while participating in remote learning. Professional development regarding the roles and responsibilities of remote learning will be created by the Office and will be made available at no cost to child care programs.

7) Small Business and Local Government Participation:

OCFS heard from several child care providers and stakeholder groups concerning the interplay of remote learning and current regulatory guidance when drafting these regulations. These regulations support the feedback OCFS received from these providers and groups. OCFS will develop technical assistance regarding roles and responsibilities of remote learning. OCFS will provide guidance, technical assistance, and outreach to small businesses and local governments that are impacted by the proposed regulation. OCFS will send notice of this new regulation electronically (via email) to all child care providers and post this information on the OCFS child care website. The guidance, technical assistance, and outreach will include the contact information of someone in OCFS to answer questions on the proposed regulations and the email address of the regulations mailbox (ocfs.sm.regcomments@ocfs.ny.gov) to provide comments on the regulations.

Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas

The proposed regulations will apply to all modalities of child care programs operating in 44 rural areas of the state.

2. Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services

There is no new required paperwork; however, child care programs and families may choose to enter into an agreement that outlines the expectation that child care programs and local governments will not be required to use or employ any additional professional services as a result of these proposed changes.

3. Costs

No additional costs will be assessed on providers with this regulation. Families in receipt of child care subsidy will be able to use these funds for care provided to school-age children during the day when children are not required to be physically present in school.

4. Minimizing Adverse Impact

The Office does not anticipate any adverse impact to rural area child care programs as a result of the proposed regulations. Without this regulation some school-age children will be without supervision while participating in remote learning. Professional development regarding the roles and responsibilities of remote learning will be created by the Office and will be made available at no cost to child care programs.

5. Rural Area Participation

OCFS heard from several child care providers and stakeholder groups concerning the interplay of remote learning and current regulatory guidance when drafting these regulations. These regulations support the feedback OCFS received from these providers and groups. OCFS will develop technical assistance regarding roles and responsibilities of remote learning. OCFS will provide guidance, technical assistance, and outreach to those that are impacted by the proposed regulation. OCFS will send notice of this new regulation electronically (via email) to child care providers and post this information on the OCFS child care website. The guidance, technical assistance, and outreach will include the contact information of someone in OCFS to answer questions on the proposed regulations and the email address of the regulations mailbox (ocfs.sm.regcomments@ocfs.ny.gov) to provide comments on the regulations.

Job Impact Statement

1. Nature of Impact

OCFS does not anticipate that the proposed regulations will have a negative impact on jobs or employment opportunities for child care program employees or caregivers in all regions of New York State. The additional school-age children at child care programs may cause child care providers to hire additional staff. The clarified terms in the new regulations would apply to existing child care providers. The language would allow school age children to be cared for by a child care worker while remote instruction would be received.

2. Categories and Numbers Affected

It is anticipated that there is licensed and registered capacity for 800,000

children in 16,200 licensed and registered programs. There are 17,000 legally exempt providers.

3. Regions of Adverse Impact

The new regulation applies to all modalities of licensed/registered and legally exempt child care in all regions of New York State. There are no regions where the regulations would have a disproportionate adverse impact on jobs or employment opportunities.

4. Minimizing Adverse Impact

The Office does not anticipate an adverse impact and will provide technical assistance to providers regarding roles and responsibilities for supporting remote-learning opportunities. Without this regulation some school-age children will be without supervision while participating in remote learning. Professional development regarding the roles and responsibilities of remote learning will be created by the Office and will be made available at no cost to child care programs.

Assessment of Public Comment

The agency received no public comment.

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00002-A

Filing No. 741

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the non-competitive class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00002-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00003-A

Filing No. 732

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00003-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00004-A

Filing No. 740

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00004-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00005-A

Filing No. 739

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00005-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00006-A

Filing No. 735

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00006-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Jurisdictional Classification**

I.D. No. CVS-51-19-00007-A

Filing No. 734

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the non-competitive class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00007-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Jurisdictional Classification**

I.D. No. CVS-51-19-00008-A

Filing No. 733

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the non-competitive class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00008-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Jurisdictional Classification**

I.D. No. CVS-51-19-00009-A

Filing No. 736

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the non-competitive class.

Substance of final rule: in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00009-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Jurisdictional Classification**

I.D. No. CVS-51-19-00010-A

Filing No. 738

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To delete positions from the non-competitive class.

Text or summary was published in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00010-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Jurisdictional Classification**

I.D. No. CVS-51-19-00011-A

Filing No. 737

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To delete a position from and classify a position in the exempt class.

Text or summary was published in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00011-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Jurisdictional Classification**

I.D. No. CVS-51-19-00012-A

Filing No. 742

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the non-competitive class.

Text or summary was published in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00012-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00013-A

Filing No. 743

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the non-competitive class.

Text or summary was published in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00013-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-51-19-00014-A

Filing No. 744

Filing Date: 2020-11-16

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify positions in the non-competitive class.

Text or summary was published in the December 18, 2019 issue of the Register, I.D. No. CVS-51-19-00014-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov

Assessment of Public Comment

The agency received no public comment.

Department of Economic Development

NOTICE OF ADOPTION

Minority and Women-Owned Business Enterprise Program

I.D. No. EDV-09-20-00007-A

Filing No. 746

Filing Date: 2020-11-17

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 140-145; addition of Parts 146 and 147 to Title 5 NYCRR.

Statutory authority: L. 2019, ch. 96

Subject: Minority and Women-Owned Business Enterprise Program.

Purpose: Update the regulations of the Division of Minority and Women's Business Development.

Substance of final rule: The revised proposed regulation makes changes to the regulations governing the Division of Minority and Women's Business Development ("DMWBD" or "Division") and the Minority and Women-Owned Business Enterprise program (the "MWBE Program"). For the purposes of clarity, the regulation amends Parts 140-45 and adds Parts 146-47.

The following is a brief summary of the substantive changes made in Parts 140-147 of the revised proposed rulemaking.

1) The revised rulemaking changes the definition of "joint venture" to delete that joint ventures shall be structured in a manner consistent with eligibility criteria for MWBE certification and changes the definition of "state contract" to clarify the inclusion of agreements concerning real property transactions and articles of procurement.

2) The revised rulemaking clarifies that the director of the Division shall establish guidelines concerning the debarment process which includes notice of hearing and referral to the Division's hearing officer for a hearing.

3) Ownership interests in a business may not be allocated to minority group members or women, either through business formation or the transfer of ownership interests, solely for the purpose of securing MWBE certification. The revised rulemaking reflects that with respect to eligibility criteria for MWBE certification, transfers of ownership interests in a business from another person to a minority group member or woman relied upon for certification must be supported by reasonable consideration and must the certification criteria.

4) The revised rulemaking clarifies that the purpose and general description with respect to appeals pertains to Section 316 of the Executive Law as well as matters concerning contractor/agency complaints.

5) The revised rulemaking clarifies that with respect to the appeal of denials or revocations of MWBE certifications, appellants may appeal but must elect to appeal either via an in-person hearing or via written submission, with written submissions due within sixty days of receipt of written notification of the denial or revocation. The revised rulemaking clarifies that an appellant's request for an adjournments or extension must state the reason for the request as well as show good cause, with the independent hearing officer to render a decision at his/her discretion. The revised rulemaking also describes the documents and evidence that may be presented or be the subject of disclosure.

6) The revised rulemaking clarifies the procedures to be followed with respect to the resolution of contractor and state agency complaints.

Final rule as compared with last published rule: Nonsubstantial changes were made in Parts 140-147.

Revised rule making(s) were previously published in the State Register on July 22, 2020.

Text of rule and any required statements and analyses may be obtained from: Bella Satra, Empire State Development, 625 Broadway, 8th Floor, Albany, NY, (518) 292-5325, email: bella.satara@esd.ny.gov

Revised Regulatory Impact Statement

STATUTORY AUTHORITY:

This rulemaking is made pursuant to Chapter 96 of the Laws of 2019. The statute authorizing the Minority and Women-Owned Business Enterprise ("MWBE") program directs the Director of the Division of Minority and Women's Business Development (the "Division" or

“DMWBD”) to assist the governor in the formulation and implementation of laws and policies relating to the program. This authority includes the adoption of procedures for the adoption of goal plans by state agencies for MWBE utilization, review of utilization plans by contractors, and certification of businesses as MWBEs. This regulatory impact statement is submitted in conjunction with the submission of a permanent regulation.

LEGISLATIVE OBJECTIVES:

The proposed rule is in accord with the public policy objectives the New York State Legislature sought to advance by enacting the MWBE Program. The program requires state agencies to set goals for participation by minority and women-owned businesses on agency contracts, and to approve utilization plans by contractors for the use of certified MWBEs on their contracts. It is the public policy of New York to address historic discrimination in the state contracting market, and to achieve the economic benefits associated with a competitive state contracting market free of discrimination, through the MWBE program. The proposed rule helps to further such objectives by updating the procedures through which agencies establish goals for participation in state contracts by minority and women-owned businesses, refining the criteria for goal setting so as to better reflect the individual circumstances and capacities of each agency, and modifying the metrics by which agencies assess the availability of minority and women-owned businesses and grant exemptions to contractors' utilization plans.

NEEDS AND BENEFITS:

New York has a history of unequal access to performance on state contracts for businesses owned by women and minorities. The state has addressed these disparities, in part, through the MWBE program. Disparities in access to state contracts have been reduced but continue to persist in all four of the areas of state contracting addressed by the MWBE program: construction, construction related services, services, and commodities.

The revised proposed rulemaking optimizes various aspects of the administration of the MWBE program. The revised rulemaking includes overall clean-up with respect to grammar/spelling errors as well as updates to citations/references.

COSTS:

I. Costs to private regulated parties (contractors on state contracts): None. The proposed regulation will not impose any additional costs on contractors awarded state contracts.

II. Costs to the regulating agency for the implementation and continued administration of the rule: None.

III. Costs to the State government: None.

IV. Costs to local governments: None. The proposed regulation will not impose any costs on local governments.

LOCAL GOVERNMENT MANDATES:

None. There are no local government mandates associated with the MWBE program.

PAPERWORK:

The rule does not establish any paperwork burdens in addition to those already imposed under the regulation.

DUPLICATION:

The proposed rule will amend an existing section of the regulations of the Commissioner of the Department of Economic Development, Parts 140–45 of 5 NYCRR, and add Parts 146–47 of 5 NYCRR. Accordingly, there is no risk of duplication in the adoption of the proposed rule.

ALTERNATIVES:

No alternatives were considered with regard to creating a new regulation in response to the statutory requirement. The regulation updates existing provisions of the NYCRR. This action is necessary in order to streamline the procedures of the program related to goal setting and adoption of utilization plans for agency procurement contracts and certification of businesses as MWBEs.

FEDERAL STANDARDS:

There are no federal standards applicable to the MWBE Program; it is purely a state program that promotes participation on certain state procurement contracts by minority and women-owned businesses. Therefore, the proposed rule does not exceed any federal standard.

COMPLIANCE SCHEDULE:

The affected agency (Department of Economic Development) and any affected contractors seeking to perform on state procurement contracts will be able to achieve compliance with the regulation as soon as it is implemented.

Revised Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement Since the publication of a Notice of Revised Rule Making was published in the State Register on July 22, 2020, substantial revisions were not made and do not require any changes to the Statement in Lieu of Regulatory Flexibility Analysis for Small Businesses and Local Governments, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted

Assessment of Public Comment

The Department of Economic Development (“DED”) received two letters commenting on the proposed revised regulation. It should be noted that to the extent comments editorialized and articulated their policy position on the program, those comments have not been addressed below.

Below is a summary of substantive comments or questions with DED’s Response:

1. Comment: The proposed regulation should define “minority ownership” to include persons falling within one or more of the listed categories to acknowledge individuals of mixed racial and ethnic backgrounds.

Response: The proposed regulations and Executive Law Article 15-A call for “Minority group member” to be a United States citizen or permanent resident alien who is and can demonstrate membership in one of the enumerated groups. Such “minority group member” is not prohibited from demonstrating membership in more than one of the enumerated groups.

DED has not made any changes to the regulations based on this comment.

2. Comment: The proposed regulations should not require a monetary limitation on personal net worth, which can be discriminatory.

Response: Executive Law Article 15-A enables the creation of the Division of Minority and Women’s Business Development (“DMWBD”) as well as the State’s MWBE certification program. With respect to personal net worth as a certification criterion, Section 310(19) Executive Law Article 15-A establishes a maximum personal net worth threshold of 15 million dollars. The criterion is not intended to be nor is it discriminatory. Additionally, Sections 313(2-a) and 314(1) enable the director of the DMWBD to establish different maximum levels of personal net worth on an industry-by-industry basis for such industries as the director may determine.

DED has not made any changes to the regulations based on this comment.

3. Comment: The proposed regulations should not require a monetary limitation as to the size of contracts, which creates barriers to entry.

Response: Executive Law Article 15-A as well as the regulations define “state contract” to include various types of agreements, some of which contain varying monetary thresholds. The State offers a wide variety of contracting opportunities, with many contracts containing subcontracting opportunities. Certified firms are encouraged to explore these opportunities as well as subcontracting opportunities on prime contracts, which are not subject to monetary thresholds. Additionally, the DMWBD offers various resources and tools, including technical assistance and business development training, to help certified firms expand their business.

DED has not made any changes to the regulations based on this comment.

4. Comment: The provision that a firm who is denied certification and does not prevail on appeal may not reapply for a period of two years following exhaustion of appeals, is punitive.

Response: The two-year bar on reapplying for MWBE certification following a final denial determination and/or exhaustion of appeals is not a punitive measure. Upon receipt of an application, the Division conducts a comprehensive review, including requesting further documents/information or narrative responses with regard to questions from the Division, or conducting site visits, where necessary and appropriate. Certification analysts are in communication with the applicants during the review process and applicants have ample opportunity to identify and obtain necessary and/or additional documentation to support their application prior to the final determination. Given the detailed and comprehensive process to ensure all necessary materials are provided in consideration of the applications, applicants who have eventually been denied are allowed to reapply following the expiration of two years from the date of the denial determination. Alternatively, they may elect to appeal the denial determination in an administrative proceeding and applicants who do not prevail in such administrative proceeding may further elect to challenge the administrative determination by filing an Article 78 petition in State court. If the facts and circumstances forming the basis of the denial determination have changed significantly, the applicant business may be eligible to reapply sooner.

With respect to recertification applicants, barring any other issues, to the extent that a recertification applicant has timely submitted a completed recertification application and otherwise complies with application procedures, the firm may remain on the directory of certified firms pending review, a determination, and the exhaustion of appeals, if applicable. To the extent a firm is listed on the DMWBD’s directory of certified firms, agencies and authorities may continue to receive utilization credit for work performed by such firm.

DED has not made any changes to the regulations based on this comment.

5. Comment: With respect to certification criteria, proof of capital contributions to obtain an ownership interest should not be limited to monetary contributions and should include “sweat equity.”

Response: With respect to capital contributions, pursuant to 5 NYCRR 144.2(b)(2)(i), proof of capital contributions is not limited to payment of money. Applicants may demonstrate their ownership of or equity interest in a business with proof of contributions of money as well as, for example, contributions of expertise and equipment.

DED has not made any changes to the regulations based on this comment.

6. Comment: The certification criteria in the proposed regulations presume that owners who rely on employees for field work and have not themselves performed such work lack sufficient knowledge or expertise to operate the business. That creates an unfair barrier to certification for first-generation business owners trying to break the glass ceiling in business.

Response: The proposed regulations are not premised on any assumption that owners who rely on employees for field work lack sufficient expertise or knowledge. Rather, the regulations do require that the minority group member or woman owner relied upon have the requisite knowledge or expertise to make day to day decisions concerning the operations of the business. The DMWBD evaluates both the owners' industry-specific competence as well as operational decision-making with respect to the critical functions of the business.

DED has not made any changes to the regulations based on this comment.

7. Comment: The certification criteria of the proposed regulations requires that a woman owner relied upon for certification must demonstrate that she "earns substantially more money than non-qualifying employees" which punishes reinvestment back into the business and creates unfair barriers to certification.

Response: The proposed regulations do not require that a woman owner applying for WBE certification demonstrate that she "earns substantially more money than non-qualifying employees" nor do the regulations "punish" reinvestment into the business. The regulations require that the minority group member or woman owner relied upon for certification demonstrate that such owner shares in the risks and profits of the business in proportion to his or her equity interest in the business.

DED has not made any changes to the regulations based on this comment.

8. Comment: The proposed regulation disallow certification where the owner obtained her interest "solely for the purposes of securing certification of such business enterprise..." which is inconsistent with the Executive Law. Further, such "purpose" cannot be ascertained objectively and consistently.

Response: With respect to the requirement that the applicant business demonstrate the minority group member or woman owner's acquisition of their ownership interests, the proposed regulations clarify that "[o]wnership interests in a business enterprise may not be allocated to minority group members or women, either through business formation or the transfer of ownership interests, solely for the purpose of securing certification of such business enterprise..." The regulations further clarify this to mean that any transfer of an interest to the owner relied upon for certification, must be supported by reasonable consideration and that all other certification criteria must be satisfied.

DED has not made any changes to the regulations based on this comment.

9. Comment: The certification criteria of the proposed regulations disproportionately impact rural businesses which are often "legacy or family-created business[es]" and/or "lack the legal or regulatory wherewithal or time to fully understand and parse" the eligibility criteria. The DMWBD should undertake an analysis of the eligibility rules' impact on small and rural businesses under Sections 202-b(1) and 202-bb(2)(b) of the State Administrative Procedures Act.

Response: With respect to understanding the eligibility criteria for certification, the DMWBD offers a wealth of resources to help educate and guide businesses seeking MWBE certification. For example, the DMWBD website contains various educational and informational content as well as certification checklists and "Frequently Asked Questions" on certification criteria and the application process. The DMWBD also offers webinars and presentations on certification. The annual New York State MWBE Forum affords businesses the opportunity to attend presentations and workshops on a wide variety of topics including certification and State contracting as well as to network and build relationships. Additionally, the DMWBD can connect businesses with technical assistance providers who may be able to offer additional guidance on the application process. All minority and women-owned businesses in New York, including in rural areas, are encouraged to explore and utilize these resources.

Pursuant to the State Administrative Procedures Act ("SAPA") and in conjunction with this proposed rulemaking, DED has determined that the rule change would not have a substantial adverse economic impact on rural areas. See SAPA, § 202-BB. As set forth in the Statement in Lieu of Rural Area Flexibility Analysis (published in the State Register on March 4, 2020), the MWBE program is statewide and while there are eligible

businesses in rural areas, the rule change will not impose any additional substantial reporting, record keeping or other compliance requirements on private entities in rural areas. Thus, a rural area flexibility analysis has been determined not to be required. See also NYS Register, July 22, 2020 (publishing the Revised Statement in Lieu of Rural Area Flexibility Analysis, which determined that no changes were needed.)

DED has also determined that because participation in the MWBE program is entirely at the discretion of each eligible business enterprise and the proposed regulations do not impose any obligation on businesses to participate, the proposed regulation does not impose any adverse economic impact, reporting, record-keeping, or other compliance requirements on small businesses. See SAPA, § 202-B. Moreover, because by law MWBE firms must be small businesses, the proposed regulations may have a positive economic impact on small businesses as the changes created in the proposed regulations may increase the number of certified small businesses that are able to access contracting opportunities throughout New York State. Thus, as set forth in the Statement in Lieu of Regulatory Flexibility Analysis for Small Businesses and Local Governments (published in the State Register on March 4, 2020), a regulatory flexibility analysis for small businesses and local government has been determined not to be required. See also NYS Register, July 22, 2020 (publishing the Revised Statement in Lieu of Regulatory Flexibility Analysis for Small Businesses and Local Governments, which determined that no changes were needed.)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Employee Training Incentive Program

I.D. No. EDV-48-20-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Part 250 of Title 5 NYCRR.

Statutory authority: L. 2015, ch. 59, part O, section 1; L. 2019, ch. 59, part B

Subject: Employee Training Incentive Program.

Purpose: To update the administrative processes for the ETIP program.

Text of proposed rule: Part 250 of the regulations of the commissioner of the Department of Economic Development are amended to read as follows:

§ 250.1 Purpose and general description.

The purpose of these regulations is to set forth the application process for the Employee Training Incentive Program. Pursuant to section 444 of the Economic Development Law, the Department of Economic Development has been granted the authority to promulgate regulations, in consultation with the Department of Labor, to establish eligibility criteria for business entities desiring to participate in the program, procedures for the receipt and evaluation of applications from business entities to participate in the program, and such other provisions as the commissioner deems to be appropriate. The Department of Economic Development shall administer the program, including the issuance of tax credit certificates.

§ 250.2 Definitions.

(a) Advanced technology means the research, development, and manufacturing of goods and their applications in the areas of advanced materials and processing technologies, integrated electronics, optics, biotechnology, information and communication technologies, automation and robotics, electronics packaging, imaging technology, remanufacturing, and such other areas as the commissioner shall determine.

(b) Approved third party provider of eligible training means an entity that provides training in methods, processes, or the use of equipment which meets the following criteria to the satisfaction of the commissioner:

(1) [business activity providing training for at least one year] *the approved third-party provider has been in business for at least one year;*

(2) a written curriculum describing the skills and knowledge to be gained by individuals completing training with the approved provider;

(3) employment of individuals with the necessary knowledge and credentials to provide eligible training; and

(4) accreditation or certification, where applicable, in the subject matter of training provided by the approved provider.

(c) Approved provider of an eligible internship program means a business entity providing internship training in advanced technology, [or] life sciences, *software development or clean energy* or a[n] *business* entity providing interns[hip training in advanced technology] pursuant to a contract with a business entity employing the intern receiving training in advanced technology, [or] life sciences, *software development or clean energy* which meets the following criteria to the satisfaction of the commissioner:

(1) a written curriculum describing, at least, the duration of the internship, the activities to be engaged in by the intern participating in the internship, and skills and knowledge to be gained by the intern as a result of participating in the internship training; and

(2) employees qualified, with accreditation or certification where applicable, to provide the internship training.

(d) Business need means the absence of a method, a process, or equipment related to the revenue-generating activities of a business entity.

(e) Capital investment means an investment in tangible property (including, a building or a structural component of a building) owned by a business entity that is depreciable pursuant to section 167 of title 26 of the United States Code; is acquired by purchase as defined in section 179(d) of title 26 of the United States Code; and has a situs in this State. Capital investments do not include operating expenses such as office supplies, training expenses, utilities, rent, and other recurring expenses. Section 167 and section 179(d) of title 26 of the United States Code are available for public inspection and copying at the following address: New York State Department of Economic Development, 625 Broadway, 8th Floor, Albany, NY 12245.

(f) Certificate of tax credit means a certificate issued by the Department which states the amount of the employee training incentive program tax credit that a business entity has qualified for, based upon the Department's analysis under section 443 of the Economic Development Law and the provisions of this Part. Such certificate may include, but is not limited to, the following information: name and address of the business entity, the amount of the tax credit to be received by the business entity, and a disclaimer stating that actual receipt of the tax credit is subject to the statutory maximum amount of credits that are allocated for the program.

(g) *Clean energy means sources of energy which are capable of being continually restored by natural or other means or are so large as to be useable for centuries without significant depletion and include but are not limited to solar, wind, plant and forest products, wastes, tidal, hydro, geothermal, deuterium, and hydrogen. Fossil fuels are excluded.*

([g]h) Commissioner means the Commissioner of Economic Development.

([h]i) Culturally focused training means training intended to provide knowledge about, or skills in interacting with, persons identifying with demographic characteristics including, but not limited to, race, nationality, gender, age, gender identity, or sexual orientation.

([i]j) Current student means a person enrolled, at the time of the commencement of such person's participation in an eligible internship program, on a full-time basis at a university or college in the State of New York in a course of study leading to a bachelor's degree or post-graduate degree in advanced technology, *life sciences, software development or clean energy.*

([j]k) Department means the New York State Department of Economic Development.

([k]l) Eligible internship program means an internship program providing internship training in advanced technology, or providing internship training in life sciences at a life sciences company, *or providing internship training in software development or clean energy* that is approved by the commissioner and provided by an approved provider of internship training on or after August 1, 2015.

([l]m) Eligible training means training provided by *the business entity or an approved third-party* provider that is:

(1) to upgrade, retrain or improve the productivity of employees;
(2) provided, in New York State, to employees [in connection with] *and related to a significant capital investment by a participating business entity;*

(3) determined by the commissioner to satisfy a business need on the part of a participating business entity;

(4) not designed to train or upgrade skills as required by a Federal or State entity;

(5) not training the completion of which may result in the awarding of a license or certificate required by law in order to perform a job function; and

(6) not culturally focused training.

([m]n) Internship training means work-based learning opportunities in advanced technology, [or] life sciences, *software development or clean energy* that:

(1) are provided by an approved provider of an eligible internship program;

(2) do not exceed 12 months in duration;

(3) are provided, in New York State, to current students, recent graduates, and recent members of the armed forces; and

(4) are provided to interns who have not previously participated in an eligible internship program and who are not current or former employees of the business entity submitting the application to provide the eligible internship program.

([n]o) Life sciences means agricultural biotechnology, biogenetics,

bioinformatics, biomedical engineering, biopharmaceuticals, academic medical centers, biotechnology, chemical synthesis, chemistry technology, medical diagnostics, genomics, medical image analysis, marine biology, medical devices, medical nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research, medical and neurological clinical trials, health robotics, and veterinary science.

([o]p) Life sciences company is a business entity or an organization or institution that devotes the majority of its efforts in the various stages of research, development, technology transfer, and commercialization related to any life sciences field.

([p]q) Program means the employee training incentive program.

([q]r) Recent graduate means a person who has earned a bachelor's degree or post-graduate degree in advanced technology from a university or college no more than 12 months prior to the date such person commences participation in an eligible internship program.

([r]s) Recent member of the Armed Forces means a person who has received honorable or general discharge from the army, navy, air force, marines, coast guard or reserves of the United States no more than 12 months prior to the date such person commences participation in an eligible internship program.

([s]t) Related person means a "related person" as such term is defined in section 465(b)(3)(C) of title 26 of the United States Code as of November 17, 2015. Section 465(b)(3)(C) of title 26 of the United States Code is available for public inspection and copying at the following address: New York State Department of Economic Development, 625 Broadway, 8th Floor, Albany, NY 12245.

([t]u) Significant capital investment means a capital investment in new business processes or equipment, the cost of which is equal to or exceeds ten dollars for every one dollar of tax credit allowed to an eligible business entity under this program pursuant to subdivision fifty of section two hundred ten-B or subsection (ddd) of section six hundred six of the tax law.

(v) *Software development means firms engaged in the creation of coded computer instruction.*

([u]w) Stipend means monetary compensation paid to an intern for his or her participation in an eligible internship program. Stipend shall not include deferred compensation or any non-monetary benefit or form of remuneration.

([v]x) Strategic industry means an industry approved by the commissioner to participate in the program, based upon the following criteria as demonstrated by business entities applying to the program:

(1) shortages of workers trained to work within the applicant's industry;

(2) technological disruption in the applicant's industry, requiring significant capital investment for existing businesses to remain competitive;

(3) the ability and need of the applicant to relocate outside of the State in order to attract talent;

(4) the potential of the applicant to recruit minorities and women to be trained to work in an industry in which they are traditionally under-represented; or

(5) the potential of the applicant to create jobs in economically distressed areas, which shall be based on criteria indicative of economic distress, as defined by the commissioner, including poverty rates, proportion of households receiving public assistance and unemployment rates.

Provided further that the following types of business are prohibited from participating in the program without a waiver from the commissioner:

(i) retail and wholesale businesses;

(ii) restaurants;

(iii) real estate brokers;

(iv) law firms or businesses providing legal services;

(v) medical or dental practices;

(vi) real estate management companies;

(vii) hospitality;

(viii) finance and financial services;

(ix) businesses providing personal services;

(x) businesses providing business administrative or support services;

(xi) accounting firms or businesses providing accounting services;

(xii) businesses providing utilities;

(xiii) businesses engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity.

§ 250.3 Eligibility criteria.

In order to participate in the program, a business entity must satisfy the following criteria:

(a) A business entity applying to participate in the program in connection with providing eligible training to employees must:

(1) operate in the State predominantly in a strategic industry;

(2) demonstrate that it is *conducting or* obtaining eligible training from an approved provider;

(3) make a significant capital investment [in connection with] *related to the eligible training*; and

(4) be in compliance with all worker protection and environmental laws and regulations. In addition, the business entity may not owe past due State taxes or local property taxes.

(b) A business entity applying to participate in the program in connection with providing an eligible internship program must:

(1) demonstrate that it will be providing an eligible internship program, not to exceed 12 months in duration, to one or more interns;

(2) be located in the State;

(3) be in compliance with all worker protection and environmental laws and regulations. In addition, the business entity may not owe past due State taxes or local property taxes;

(4) certify that the eligible internship program will not displace employees of the business entity; and

(5) employ fewer than 100 employees.

§ 250.4 Application process.

(a) Initial application.

(1) A business entity must submit an initial application, in such form and at such time as the commissioner shall determine, to the Department prior to [procuring] *commencing* eligible training [from an approved provider] or *procuring eligible training from an approved third party* or retaining interns to participate in an eligible internship program.

(2) Upon receipt of a complete initial application the Department may[, at its sole discretion,] approve such application based upon the criteria set forth in section 250.6(a) of this Part.

(3) After review of an initial application, the Department will notify a business entity of its eligibility and may issue a certificate of conditional eligibility to the business entity.

(b) Final application.

(1) A business entity must submit a final application no later than twenty-four months from the date the Department issues the business entity a certificate of conditional eligibility.

(2) The Department shall approve or disapprove the final application based upon the criteria set forth in section 250.6(b) of this Part. If the final application is approved, the Department shall issue a certificate of tax credit to the business entity. The Department shall provide a copy of such certificate of tax credit to the Department of Taxation and Finance. If the final application is disapproved, the Department shall provide the business entity with a notice of disapproval which shall state the reasons therefor.

§ 250.5 Allocation of the Employee Training Incentive Program credit.

(a) The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable year shall not exceed \$5,000,000, and, of that \$5,000,000, the amount of tax credits allocated for business entities providing eligible internship programs shall be at least \$250,000 and no more than \$1,000,000.

(b) In the event that the capital investments incurred by a participating business entity, as determined by the Department pursuant to paragraph (b) of section 250.6 of this Part, do not equal at least ten times the costs for eligible training incurred by the participating business entity, then the Department shall issue a pro-rated certificate of tax credit in an amount equal to no more than one-tenth of the capital investments incurred by the participating business entity.

§ 250.6 Criteria for evaluation of applications.

(a) Initial application.

An initial application may be approved by the Department [, at its sole discretion,] provided that such application satisfies the following criteria:

(1) In the case of a business entity applying to participate in the program in connection with providing eligible training to employees, such application must:

(i) be complete;

(ii) be submitted prior to [procuring] *the business entity commencing* eligible training [from the business entity] or *procuring eligible training from an approved third-party provider*;

(iii) be made by a business entity operating in the State predominantly in a strategic industry;

(iv) identify the approved third-party provider if applicable from which the business entity proposes to procure eligible training;

(v) demonstrate, by providing a written curriculum and such other documentation as the commissioner may require, that the training [to be provided by an approved provider] is eligible training;

(vi) estimate the total costs attributable to providing the eligible training;

(vii) [certify] *attest* that such business entity is in compliance with all worker protection and environmental laws and regulations, and that such business entity does not owe past due State taxes or local property taxes;

(viii) agree to allow the Department of Taxation and Finance to share the tax information of the business entity with the Department;

(ix) agree to allow the Department of Labor to share its tax and employer information with the Department;

(x) agree to allow the Department and its agents access to any and all books and records the Department may require to monitor compliance; and include one of the following:

(a) at least three bids solicited from entities proposing to provide the eligible training; or

(b) an attestation that the business entity could not obtain at least three bids from [entities] *approved third party providers* proposing to provide the eligible training, and a written explanation for its inability to obtain such bids.

(2) In the case of a business entity applying to participate in the program in connection with providing an eligible internship program, such application must:

(i) be complete;

(ii) be submitted prior to the business entity retaining interns to participate in the eligible internship program;

(iii) identify the [approved provider that will provide the eligible internship program and the] employees of such *business entity or approved third party provider* who will be responsible for managing and training interns retained by the business entity;

(iv) demonstrate, by providing a written curriculum and such other documentation as the commissioner may require, that the internship program to be provided is an eligible internship program;

(v) estimate the total costs for stipends to be paid to interns participating in the eligible internship program;

(vi) certify that such business entity is in compliance with all worker protection and environmental laws and regulations, and that such business entity does not owe past due State taxes or local property taxes;

(vii) agree to allow the Department of Taxation and Finance to share the tax information of the business entity with the Department;

(viii) agree to allow the Department of Labor to share its tax and employer information with the Department;

(ix) agree to allow the Department and its agents access to any and all books and records the Department may require to monitor compliance;

(x) certify that the eligible internship program will not displace employees of the business entity;

(xi) identify the number of full-time equivalent employees of the business entity; and

(xii) demonstrate that interns participating in the eligible internship program will comprise less than 50 percent of the workforce of the business entity.

(b) Final application.

A final application shall not be approved until a business entity demonstrates satisfaction of the following criteria to the satisfaction of the commissioner:

(1) In the case of a business entity submitting a final application in connection with providing eligible training to employees, such application must:

(i) be complete;

(ii) demonstrate that the eligible training described in such business entity's initial application is complete;

(iii) not contain material misrepresentations;

(iv) be submitted no more than twenty-four months from the date of the Department's issuance of a certificate of conditional eligibility to the business entity; and

(v) demonstrate that such business entity made a significant capital investment in connection with the eligible training.

(2) In the case of a business entity submitting a final application in connection with providing an eligible internship program, such application must:

(i) be complete;

(ii) demonstrate that the eligible internship program described in such business entity's initial application is complete;

(iii) demonstrate that any interns participating in the eligible internship program were current students, recent graduates, or recent members of the Armed Forces;

(iv) not contain material misrepresentations; and

(v) demonstrate that no employees have been displaced as a result of the eligible internship program.

§ 250.7 Record retention.

Each business entity participating in the program shall maintain all relevant records for the duration of its program participation plus three years, and make such records available to the Department and its agents upon seven days' notice.

Text of proposed rule and any required statements and analyses may be obtained from: Thomas Regan, NYS Department of Economic Development, 625 Broadway, Albany NY 12245, (518) 292-5120, email: thomas.regan@esd.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement**STATUTORY AUTHORITY:**

Section 1 of Part O of Chapter 59 of the Laws of 2015 required the Commissioner of the Department of Economic Development (the "Department") to promulgate regulations establishing the application process for the Employee Training Incentive Program ("ETIP"). These procedures included the process for applying for tax credits under ETIP, standards for the assessment of applications, and other provisions deemed necessary and appropriate. Part B of Chapter 59 of the Laws of 2019 recently amended certain aspects of the program which, in turn, are being captured by this rulemaking.

LEGISLATIVE OBJECTIVES:

The proposed rule gives effect to the intention of the legislature in adopting ETIP to encourage employers in strategic industries, characterized by technological disruption and a shortage of potential employees within New York State, to develop talent in New York State through eligible training and internship programs rather than relocating to other regions to secure skilled employees.

NEEDS AND BENEFITS:

The rulemaking is necessary in order to update the existing regulations which govern the program so that they will now conform to recent statutory changes made by the Legislature.

New York suffers from a skills gap in its workforce, resulting in thousands of job vacancies that employers are unable to fill due to a shortage of qualified workers. Without action on the part of the state, employers in industries subject to such shortages of skilled workers may be required to relocate outside of New York in order to retain adequate numbers of skilled employees. This problem is made more acute by the action of other states in the region to create programs to cultivate pools of skilled labor, creating an incentive for employers in New York to relocate jobs outside of the state. To address this problem, ETIP provides tax credit incentives to business entities that conduct or procure eligible training or provide eligible internship programs in advanced technology.

Business applicants to the program must first establish that they are engaged in a strategic industry, as evidenced by factors such as shortages of skilled employees and technological disruption in the industry. Furthermore, such applicants must demonstrate, among other things, that they themselves will be providing or they will be procuring eligible training from an approved provider or providing an eligible internship program in advanced technology, life sciences, software development or clean energy.

The proposed rule updates the administrative aspects of the program to allow for the business entities themselves to receive the tax credit when they provide for such training in house. In addition, it extends the eligible sectors for internship programs under this program to include software development and clean energy internships.

COSTS:

I. Costs to private regulated parties (the business applicants): None. The proposed rule will not impose any additional costs to eligible business applicants.

II. Costs to the regulating agency for the implementation and continued administration of the rule: None.

III. Costs to the State government: None.

IV. Costs to local governments: None. The proposed rule will not impose any costs on local governments.

LOCAL GOVERNMENT MANDATES:

None. There are no local government mandates associated with ETIP.

PAPERWORK:

The rule updates qualification rules and application procedures for ETIP. The rule entails certain paperwork burdens including materials to be submitted as part of applications for tax credits, additional documents the Commissioner may request from applicants as part of his evaluation of applications, and certain records that must be maintained by program participants for auditing purposes.

DUPLICATION:

The proposed rule amends the existing regulations of the Commissioner of the Department of Economic Development, Part 250 of 5 NYCRR. Accordingly, there is no risk of duplication in the adoption of the proposed rule.

ALTERNATIVES:

No alternatives were considered with regard to creating a new rule in response to the statutory requirement. The rule updates procedures for business entities to apply to ETIP. This action is necessary in order to clarify how qualifying businesses in strategic industries may receive program benefits and puts the regulations in conformity with the ETIP statute.

FEDERAL STANDARDS:

There are no federal standards applicable to ETIP; it is purely a state program that offers tax benefits to business entities in strategic industries incurring qualifying costs for eligible training or an eligible internship

program in advanced technology. Therefore, the proposed rule does not exceed any federal standard.

COMPLIANCE SCHEDULE:

The affected agency (Department of Economic Development) and any applicants to ETIP will be able to achieve compliance with the regulation as soon as it is adopted.

Regulatory Flexibility Analysis

Participation in the Employee Training Incentive Program ("ETIP") is entirely at the discretion of qualifying business entities. Neither statute nor the proposed rule impose any obligation on any local government or business entity to participate in the program. The proposed rule does not impose any adverse economic impact or compliance requirements on small businesses or local governments. In fact, the proposed rule may have a positive economic impact on small businesses. Only small businesses, those with one hundred (100) employees or fewer, are eligible to apply to ETIP for benefits associated with providing an eligible internship program.

Because it is evident from the nature of the proposed rule that it will have either no impact or a positive impact on small businesses and local government, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

The Employee Training Incentive Program is a statewide business assistance program. Strategic businesses in rural areas of New York State are eligible to apply to participate in the program entirely at their discretion. Municipalities are not eligible to participate in the Program. The rule does not impose any special reporting, record keeping or other compliance requirements on private entities in rural areas. Therefore, the rule will not have a substantial adverse economic impact on rural areas nor on the reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The proposed rule updates administrative procedures for business entities to apply to the Employee Training Incentive Program ("ETIP") for tax credit benefits associated with providing eligible training to their employees, or an eligible internship program in advanced technology, life sciences, software development or clean energy. The program aims to induce employers to provide training in order to cultivate a pool of skilled workers who can meet the requirements for unfilled positions in strategic industries. The rule will not have a substantial adverse impact on jobs and employment opportunities; rather, the program is intended to increase employment opportunities.

Because it is evident from the nature of the rulemaking that it will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Education Department

EMERGENCY RULE MAKING

Eligibility for Participation of Students With IEPs, Section 504 or ADA Plans in Interschool Competition & Inclusive Athletics

I.D. No. EDU-25-20-00008-E

Filing No. 727

Filing Date: 2020-11-13

Effective Date: 2020-11-14

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 135.4 of Title 8 NYCRR.

Statutory authority: Education Law, sections 101, 207, 305, 803, 3204; Rehabilitation Act of 1973, as amended, section 504; 29 U.S.C. section 794; Americans with Disabilities Act 42 U.S.C. section 12101, et. seq.; Individuals with Disabilities Education Act, 20 U.S.C. section 1400, et. seq.

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: The proposed amendment to section 135.4 of the Regulations of the Commissioner of Education is necessary to immediately clarify that schools and associations, etc., are not precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an individualized education program under the Individuals with Disabilities Education Act (IDEA) or approved 504 (Rehabilitation Act) or Americans with Disabilities Act (ADA) plan, are not registered in the equivalent of three regular courses.

The proposed amendment was presented to the Full Board for adoption as an emergency action at the June 2020 meeting of the Board of Regents, effective June 9, 2020. A second emergency action was taken at the July 2020 Regents meeting to ensure that the proposed amendment remained continuously in effect until it could be permanently adopted, effective September 7, 2020. At its September meeting, the Department revised the proposed amendment to clarify that accommodation requests for participation in interschool competition or inclusive athletic activities from otherwise qualified students who are not registered in the equivalent of three regular courses as a result of his or her individualized education program (IEP) under the IDEA shall also be duly considered by schools and associations, etc. effective September 15, 2020.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for permanent adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) section 201(4-a), would be the December 2020 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the December meeting, would be December 30, 2020, the date the Notice of Adoption would be published in the State Register. However, the September emergency rule will expire on November 13, 2020.

Therefore, emergency action is necessary at the October 2020 meeting for the preservation of the public health and general welfare in order to immediately clarify that schools and associations, etc., are not precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an individualized education program or approved 504 or ADA plan, are not registered in the equivalent of three regular courses, and to ensure that the emergency action taken at the September 2020 meeting remains in effect until the proposed rule can be permanently adopted.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the December 2020 Regents meeting, which is the first scheduled meeting after the 45-day public comment period prescribed in SAPA for State agency rule makings.

Subject: Eligibility for Participation of Students With IEPs, Section 504 or ADA Plans in Interschool Competition & Inclusive Athletics.

Purpose: To clarify eligibility requirements for participation of students with IEPs section 504 or ADA plans in interschool competition.

Text of emergency rule: 1. Subclause (2) of clause (b) of subparagraph (ii) of paragraph (7) of subdivision (c) of section 135.4 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) Registration. A pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he is a bona fide student, enrolled during the first 15 school days of such semester, is registered in the equivalent of three regular courses, is meeting the physical education requirement, and has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted. *Nothing in this clause shall be construed to preclude a chief school officer, athletic association, league or section from duly considering a request for an accommodation on behalf of an otherwise qualified student with a disability who is not registered in the equivalent of three regular courses as a result of his or her individualized education program under the Individuals with Disabilities Education Act or education plan approved under section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-25-20-00008-EP, Issue of June 24, 2020. The emergency rule will expire January 11, 2021.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 101 of the Education Law continues existence of Education Department, with Board of Regents as its head, and authorizes Regents to

appoint Commissioner of Education as Department's Chief Administrative Officer, which is charged with general management and supervision of all public schools and educational work of State.

Section 207 of the Education Law grants general rule making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 305 of the Education Law establishes the general powers and duties of the Commissioner of Education.

Section 803 of the Education Law requires all pupils over 8 in all elementary and secondary schools to receive physical education under the direction of the Commissioner as the Regents may determine.

Section 3204 of the Education Law provides that a minor required to attend upon instruction may attend at a public school or elsewhere.

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504) prohibits discrimination against people with disabilities in programs that receive federal financial assistance.

Americans with Disabilities Act 42 U.S.C. § 12101, et. seq. (ADA) prohibits discrimination against individuals with disabilities in all areas of public life including, jobs, schools, transportation, and all public and private places that are open to the general public.

Individuals with Disabilities Education Act 20 U.S.C. § 1400, et. seq. (IDEA) makes available a free appropriate public education to eligible children with disabilities and ensures special education and related services to those children.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 or ADA plan, are not registered in the equivalent of three regular courses.

3. NEEDS AND BENEFITS:

The purpose of the proposed amendment to section 135.4 of the Regulations of the Commissioner of Education is to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an Individualized Education Program (IEP) under the Individuals with Disabilities Act (IDEA) or approved section 504 of the Rehabilitation Act of 1973 or Americans with Disabilities Act (ADA) plan, are not registered in the equivalent of three regular courses.

The current regulation provides that a pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he or she:

- is a bona fide student, enrolled during the first 15 school days of such semester;
- is registered in the equivalent of three regular courses;
- is meeting the physical education requirement; and
- has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.

The current regulation, as written, has been interpreted by schools and athletic associations, etc., as precluding consideration of a request for an accommodation on behalf of an otherwise qualified student with a disability who is not registered in the equivalent of three regular courses as a result of his or her IEP or section 504 or ADA plan. The amendment makes it clear that the regulation should not be interpreted as barring consideration of such accommodation requests in accordance with federal law.

4. COSTS:

(a) Costs to State government. There are no additional costs to State government.

(b) Costs to local government. There are no additional costs to local government.

(c) Costs to private regulated parties. The proposed rule does not impose any additional costs to regulated parties.

(d) Costs to the regulatory agency. There are no additional costs to the State Education Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any program, service, duty, or responsibility upon local governments.

6. PAPERWORK:

The proposed rule imposes no reporting requirement or other paperwork requirements.

7. DUPLICATION:

The proposed amendment does not duplicate any other existing State or federal requirements.

8. ALTERNATIVES:

The proposed amendment is necessary to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participa-

tion in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 or ADA plan, are not registered in the equivalent of three regular courses. There are no significant alternatives to the proposed amendment and none were considered.

9. FEDERAL STANDARDS:

IDEA, Section 504 and the ADA all prohibit discrimination against individuals with disabilities. The proposed amendment ensures compliance with IDEA, Section 504 and the ADA by clarifying that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP approved section 504 or ADA plan, are not registered in the equivalent of three regular courses.

10. COMPLIANCE SCHEDULE:

The emergency rule will become effective September 14, 2020. It is anticipated that the proposed amendment will be permanently adopted at the December 2020 Board of Regents Meeting. If adopted at the December meeting the proposed amendment will become effective on December 30, 2020. It is anticipated that regulated parties will be able to comply with the proposed amendments by the effective date.

Regulatory Flexibility Analysis

Small Businesses:

The purpose of the proposed amendment to section 135.4 of the Regulations of the Commissioner of Education is to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 of the Rehabilitation Act of 1973 or Americans with Disabilities Act (ADA) plan, are not registered in the equivalent of three regular courses.

The current regulation provides that a pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he or she:

- is a bona fide student, enrolled during the first 15 school days of such semester;
- is registered in the equivalent of three regular courses;
- is meeting the physical education requirement; and
- has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.

The current regulation, as written, has been interpreted by schools and athletic associations, etc., as precluding consideration of a request for an accommodation on behalf of an otherwise qualified student with a disability who is not registered in the equivalent of three regular courses as a result of his or her IEP or approved section 504 or ADA plan. The amendment makes it clear that the regulation should not be interpreted as barring consideration of such accommodation requests in accordance with federal law.

The proposed rule does not impose any adverse economic impact, reporting, record keeping or any other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

(a) Local Governments:

1. EFFECT OF RULE:

The proposed amendment applies to each of the 695 public school districts in the State.

2. COMPLIANCE REQUIREMENTS:

The purpose of the proposed amendment to section 135.4 of the Regulations of the Commissioner of Education is to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 or ADA plan, are not registered in the equivalent of three regular courses.

The current regulation provides that a pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he or she:

- is a bona fide student, enrolled during the first 15 school days of such semester;
- is registered in the equivalent of three regular courses;
- is meeting the physical education requirement; and
- has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.

The current regulation, as written, has been interpreted by schools and athletic associations, etc., as precluding consideration of a request for an accommodation on behalf of an otherwise qualified student with a disability who is not registered in the equivalent of three regular courses as a result of his or her IEP or approved section 504 or ADA plan. The amend-

ment makes it clear that the regulation should not be interpreted as barring consideration of such accommodation requests in accordance with federal law.

3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional service requirements on charter schools.

4. COMPLIANCE COSTS:

The proposed rule clarifies that that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 or ADA plan, are not registered in the equivalent of three regular courses. The proposed rule does not impose any additional costs on local governments.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed rule does not impose any additional technological requirements on school districts or charter schools. Economic feasibility is addressed under the Compliance Costs section above.

6. MINIMIZING ADVERSE IMPACT:

The proposed amendment is necessary to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 or ADA plan, are not registered in the equivalent of three regular courses. There were no significant alternatives were considered.

7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State and from the chief school officers of the five big city school districts.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed rule applies to all school districts in the State, including those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The proposed amendment is necessary to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an Individuals Education Program (IEP) under the Individuals with Disabilities Act (IDEA) or approved section 504 of the Rehabilitation Act of 1973 or Americans with Disabilities Act (ADA) plan, are not registered in the equivalent of three regular courses.

The current regulation provides that a pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he or she:

- is a bona fide student, enrolled during the first 15 school days of such semester;
- is registered in the equivalent of three regular courses;
- is meeting the physical education requirement; and
- has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.

The current regulation, as written, has been interpreted by schools and athletic associations, etc., as precluding consideration of a request for an accommodation on behalf of an otherwise qualified student with a disability who is not registered in the equivalent of three regular courses as a result of his or her IEP or section 504 of the or ADA plan. The amendment makes it clear that the regulation should not be interpreted as barring consideration of such accommodation requests in accordance with federal law.

3. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on the State, regulated parties, or the State Education Department.

4. MINIMIZING ADVERSE IMPACT:

The proposed amendment clarifies that that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an IEP or approved section 504 or ADA plan, are not registered in the equivalent of three regular courses. Because the statutory requirement upon which the proposed amendment is based applies to all schools in the State, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

5. RURAL AREA PARTICIPATION:

Comments on the proposed rule were solicited from school districts

through the offices of the district superintendents of each supervisory district in the State and from the chief school officers of the five big city school districts, including those in rural areas.

Job Impact Statement

The purpose of the proposed amendment to section 135.4 of the Regulations of the Commissioner of Education is to clarify that schools and associations, etc., shall not be precluded from considering accommodation requests from otherwise qualified students with disabilities for participation in interschool competition or inclusive athletic activities who, pursuant to an Individualized Education Program (IEP) under the Individuals with Disabilities Act (IDEA) or approved section 504 of the Rehabilitation Act of 1973 or Americans with Disabilities Act (ADA) plan, are not registered in the equivalent of three regular courses.

The current regulation provides that a pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he or she:

- is a bona fide student, enrolled during the first 15 school days of such semester;
- is registered in the equivalent of three regular courses;
- is meeting the physical education requirement; and
- has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.

The current regulation, as written, has been interpreted by schools and athletic associations, etc., as precluding consideration of a request for an accommodation on behalf of an otherwise qualified student with a disability who is not registered in the equivalent of three regular courses as a result of his or her IEP or section 504 or ADA plan. The amendment makes it clear that the regulation should not be interpreted as barring consideration of such accommodation requests in accordance with federal law.

Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

EMERGENCY RULE MAKING

Addressing the COVID-19 Crisis and Planning for the Reopening of Schools

I.D. No. EDU-30-20-00004-E

Filing No. 726

Filing Date: 2020-11-13

Effective Date: 2020-11-14

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 80-5.3, 80-5.4, 100.1, 100.2, 100.5, 100.6, 100.10, 117.3, 136.3, 145-2.1, 151-1.3, 154.2.2, 154-2.3, 156.3 and 200.4 of Title 8 NYCRR.

Statutory authority: Education Law, sections 101, 207, 208, 209, 215, 305, 308, 309, 602, 661, 905, 1709, 2117, 2854, 3001, 3004, 3009, 3204, 3205, 3208, 3212, 3214, 3602, 3602-c, 3602-e, 3604, 3623, 3713, 4401, 4403 and 4410

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis including orders directing the closure of schools for the remainder of the 2019-20 school year and 2020 summer school except for extended school year (ESY) services. In response, the Department adopted emergency regulations at the April, May, June, July, and September 2020 Board of Regents meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The Department presented this proposed amendment to the Full Board for adoption as an emergency action at its July 2020 meeting, effective July 14, 2020 to address additional issues resulting from the interruptions caused by the COVID-19 crisis and to prepare for the reopening of schools. The Department revised the proposed emergency regulation at the September 2020 Board meeting to provide clarification relating to the regulatory flexibility provided for diagnostic screening and to align such amendment to reopening guidance issued by the Department, effective September 15, 2020. The proposed amendments provide flexibility related to the following:

- Academic Intervention Services (AIS) determinations;
- Home instruction programs deadline for submission of the written notice of intention to instruct at home;
- School health screening waivers;
- Definition of the unit of study;
- Career development and occupational studies work-based learning experience hours;
- Science laboratory experience;
- Diagnostic screening for new school entrants;
- Psychological evaluations for students referred for being suspected of having a disability;
- Student observation for an initial evaluation of a student suspected of having a disability;
- Incidental teaching;
- Substitute teaching;
- Shorter semester for institutions of higher education;
- Class sizes for 3-year olds and 4-year olds;
- Process for initial enrollment, reentry identification and parent notification, orientation, and placement of English Language Learners (ELLs), identification of ELLs with inconsistent/interrupted formal education, and the timeline for review of ELLs identification; and
- School bus drills.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (nonemergency) adoption, after publication in the State Register and expiration of the 45-day public comment period required in the State Administrative Procedure Act (SAPA) section 201(4-a), is the December 2020 Regents meeting. However, because the COVID-19 crisis is presently affecting the State of New York, a fourth emergency action is necessary for the preservation of public health and the general welfare in order to immediately provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to ensure that the emergency action taken at the September meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the December 2020 Regents meeting, which is the first scheduled meeting after the 45-day public comment period prescribed in SAPA for State agency rule makings.

Subject: Addressing the COVID-19 crisis and planning for the reopening of schools.

Purpose: To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools.

Substance of emergency rule (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rules/full-text-indices>): On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the school year and summer school and directing nonessential work personnel to work from home. In response, the Department adopted emergency regulations at the April, May and June 2020 Board of Regents Meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. To address additional issues resulting from the interruptions caused by the COVID-19 crisis, and to plan for the reopening of schools the Department is proposing further emergency regulatory amendments as follows:

- Academic Intervention Services
 - o Section 100.2(ee) of the Commissioner's regulations is amended to provide that schools are not required to conduct the two-step identification prescribed for identification of students to receive AIS for the 2020-21 school year due to the cancellation of State assessments for the 2019-20 school year due to the COVID-19 crisis.
- Home Instruction
 - o Section 100.10(b) of the Commissioner's regulations is amended to provide that for the 2020-21 school year, the home instruction program deadline for submission of the written notice of intention to instruct at home is extended from July 1 until August 1, 2020 due to the COVID-19 crisis.
- Health Screening Waiver
 - o Section 136.3(e) of the Commissioner's regulations is amended to provide that hearing, vision, and scoliosis screenings required to be provided by public schools are waived for the 2020-21 school year due to the COVID-19 crisis, unless the screening is otherwise deemed necessary.
- Curriculum and Instruction
 - o Unit of Study: The definition of "Unit of study" in section 100.1(a) of the Commissioner's regulations is amended to provide that "equiva-

lent” shall mean at least 180 minutes of instructional time per week for instruction delivered in a traditional face to face model or through alternative instructional experiences, including but not limited to through digital technology or blended learning, that represents standards-based learning under the guidance and direction of an appropriately certified teacher. Instructional experiences shall include, but not be limited to: meaningful and frequent interaction with an appropriately certified teacher; academic and other supports designed to meet the needs of the individual student and instructional content that reflects consistent academic expectations as in-person instruction. Any alternative instructional experience must include meaningful feedback on student assignments and methods of tracking student engagement. This amendment is necessary so that schools may plan for various types of instructional models, including hybrid models, because of contingencies that may make it impossible for a specific amount of face to face contact between teachers and students due to the COVID-19 crisis.

- o CDOS: Section 100.6(b) of the Commissioner’s regulations is amended to provide that a career development and occupational studies (CDOS) commencement credential may be awarded to students exiting school in the 2020-2021 school year who are unable to complete all of the 54 hours of documented school supervised work-based learning experiences required and otherwise meet all other requirements for such credential, where such schools are unable to provide students a certain portion of their scheduled work-based learning experience in the 2020-2021 school year due to the COVID-19 crisis.

- o Science laboratory experience: Section 100.5(b) of the Commissioner’s regulations is amended to provide that for the 2020-2021 school year as a result of the COVID-19 crisis the 1,200 minutes of lab experience may be met through a combination of hands-on and simulated laboratory experience.

- Diagnostic screening: Section 117.3(b) of the Commissioner’s regulations is amended to provide that for the 2020-21 school year school year, due to the COVID-19 crisis, diagnostic screening for students who transfer after December 1, 2020 into a New York State public school from a district outside of New York State or who transfer from a district within New York State and the student has no screening record, shall have a diagnostic screening conducted as soon as practicable.

- Special Education

- o Section 200.4(b) of the Commissioner’s regulations is amended to provide that an individual psychological evaluation is only a required component for an initial evaluation when it is determined to be necessary by a school psychologist due to the COVID-19 crisis when schools are closed pursuant to an Executive Order of the Governor and students are learning remotely.

- o Additionally, such section is amended to require an observation of a student as a required component for an initial evaluation only when it is determined appropriate by the Committee on Preschool Special Education or Committee on Special Education due to the COVID-19 crisis when schools are closed pursuant to an Executive Order of the Governor and students are learning remotely.

- o Classroom observations would continue to be a required component of an initial evaluation for students suspected of having a learning disability.

- Higher Education

- o Incidental teaching: Section 80-5.3 of the Commissioner’s regulations is amended to allow a superintendent of schools to assign certified teachers to teach a subject not covered by their certificate for a period not to exceed ten classroom hours a week, when no certified or qualified teachers are available after extensive and documented recruitment, during the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.

- o Substitute teacher: Section 80-5.4 of the Commissioner’s regulations is amended to allow substitute teachers who do not hold a valid certificate and who are not working towards certification but who holds a high school diploma or its equivalent, to be employed by the school district or BOCES beyond the 40-day limit, for up to 90 days in extreme circumstances and for more than 90 days in rare circumstances, under specified conditions during the time period of the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.

- o Shorter semester: The definitions of full-time and part-time student for Tuition Assistance Programs (TAP) in Section 145-2.1 of the Commissioner’s regulations is amended to provide that for the 2020-21 academic year students shall be considered full-time and part-time where the student is unable to enroll in credit-bearing courses for at least 15 weeks for a semester due to the COVID-19 crisis, provided that such student is enrolled in such credit-bearing courses for a minimum of 12 weeks for a semester and still meets the semester hour requirements.

- Early Learning

- o Section 151-1.3(d) of the Commissioner’s regulations is amended to provide that due to the COVID-19 crisis for the 2020-21 school year for

school districts outside of NYC for 3-year old students, with a class size of 7 children or less there must be one teacher assigned to each class and for 4-year old students, with a class size of 8 children or less, there must be one teacher assigned to each class. For the City School District of the City of New York for 3-year old students, with a class size of 10 children or less, there must be one teacher assigned to each class and for 4-year old students, with a class size of 12 children or less there must be one teacher assigned to each class.

- English Language Learners

- o Section 154-2.2(y) of the Commissioner’s regulations is amended to provide that day(s) during a school closure ordered pursuant to an Executive Order(s) of the Governor pursuant to a State of emergency for the COVID-19 crisis shall not count towards the calculation of less than twelve months for identifying English language learner (ELL) students with inconsistent/interrupted formal education.

- o Section 154-2.3(a)(2) of the Commissioner’s regulations is amended to provide that the individual interview for the identification process to determine if a student is an English language learner is waived where a school district can document that video conferencing was used to remotely conduct an individual interview during a school closure ordered pursuant to an Executive Order(s) of the Governor pursuant to a State of emergency for the COVID-19 crisis. In such cases qualified personnel will review the previously completed Home Language Questionnaire with the parent or person in parental relation.

- o Section 154-2.3(b) of the Commissioner’s regulations is amended to provide that due to the COVID-19 crisis for the 2020-2021 school year, the 45-day timeline for a school district to initiate a review of a determination made in the initial or reentry identification process for English language learners after receipt of a written request is extended to 65 days from the beginning of the 2020-2021 school year for any student that was either newly enrolled during the COVID-19 closures in the 2019-2020 school year, Summer 2020, or within the first 20 days of the 2020-2021 school year.

- o Section 154-2.3(g) of the Commissioner’s regulations is amended to provide that:

- Due to the COVID-19 crisis for the 2020-2021 school year, the process for initial enrollment or reentry identification and parent notification, orientation, and placement shall be completed such that a student who was either newly enrolled during the COVID-19 closures in the 2019-2020 school year, Summer 2020, or the first 20 days of the 2020-2021 school year is placed in either a Bilingual Education or English as New Language program within 30 school days after commencement of the 2020-2021 school year for school districts with 150 or more ELLs, or where ELLs 10% or more of the district’s population.

- School districts with 149 or fewer ELLs or where ELLs constitute less than 10% of the district’s population may seek an exemption from the English language learner identification timeline for students who are newly enrolled during the COVID-19 closures in the 2019-2020 school year, Summer 2020, or the first 20 days of the 2020-2021 school year on an application form in a timeframe prescribed by the Commissioner; provided that such school demonstrates sufficient need for such exemption notwithstanding the size and percentage of its ELL population.

- Pupil Transportation

- o Section 156.3(f) is amended to provide that for the first school bus drill to be conducted during the first seven days of schools, such seven days shall exclude any days where school is closed pursuant to an Executive Order of the Governor for the COVID-19 crisis for the Fall term for 2020-2021 school year.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-30-20-00004-EP, Issue of July 29, 2020. The emergency rule will expire January 11, 2021.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 148EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Education Law § 101 continues existence of Education Department, with Board of Regents as its head, and authorizes Regents to appoint Commissioner of Education as Department’s Chief Administrative Officer, which is charged with general management and supervision of all public schools and educational work of State.

Education Law § 207 empowers Regents and Commissioner to adopt rules and regulations to carry out State education laws and functions and duties conferred on the Department.

Education Law § 208 empowers the Regents to confer diplomas and degrees as they deem proper and to establish examination as to attain-

ments in learning, and award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the prescribed requirements.

Education Law § 209 provides that the Regents shall establish, in secondary institutions, examinations in studies furnishing a suitable standard of graduation therefrom and of admission to colleges, and certificates or diplomas shall be conferred by the Regents to students who satisfactorily pass such examinations.

Education Law § 215 empowers the Regents and the Commissioner to visit, examine into and inspect, any institution in the University and any school or institution under the educational supervision of the State and may require reports therefrom giving information as the Regents or the Commissioner prescribe.

Education Law § 305 establishes the general powers and duties of the Commissioner of Education.

Education Law § 308 authorizes the Commissioner to enforce and give effect to any provision in the Education Law or in any other general or special law pertaining to the school system of the State or any rule or direction of the Regents.

Education Law § 309 charges Commissioner with general supervision of boards of education and their management and conduct of all departments of instruction.

Education Law § 602 prescribes the duties of the commissioner of education.

Education Law § 661 prescribed the eligibility requirements and conditions governing general awards, academic performance awards and student loans.

Education Law § 905 requires the director of school health services of each school district to conduct screening examinations of vision, hearing, and scoliosis of all students at such times and as defined in the Commissioner's regulations, and at any time deemed necessary.

Education Law § 1709 enumerates the powers and duties of boards of education of union free school districts.

Education Law § 3001 prescribes the qualifications of teachers.

Education Law § 3004 directs the Commissioner of Education to prescribe regulations governing the examination and certification of teachers employed in all public schools of the State.

Education Law § 3009 provides that unqualified teachers shall not be paid from school moneys.

Education Law § 3204 provides that a minor required to attend upon instruction may attend at a public school or elsewhere.

Education Law § 3205 provides that each minor from six to sixteen years of age in each school district or on an Indian reservation shall attend upon full time instruction.

Education Law § 3208 provides for the screening of new entrants to school and the prohibition against mandatory medication.

Education Law § 3212 defines a person in parental relation and their duties.

Education Law § 3214 prescribes procedures and requirements for student placement, suspensions and transfers.

Education Law § 3602 provides for the apportionment of public moneys to school districts employing eight or more teachers.

Education Law § 3602-c provides for the apportionment of moneys to school district for the provision of services to pupils attending nonpublic schools.

Education Law § 3602-e authorizes and directs the Commissioner of Education to award grants for the establishment and implementation of a prekindergarten program to serve eligible children.

Education Law § 3604 enumerates conditions under which districts are entitled to the apportionment of state funds.

Education Law § 3623(1)(c) provides that the first school bus drill, of the three drills per school year, shall be conducted during the first seven days of sessions of the fall term.

Education Law § 3713 authorizes and empowers the State, any school district, or its trustees or board of education to accept appropriations from the federal government for educational purposes.

Education Law § 4401 provides definitions relating to children with handicapping conditions.

Education Law § 4403 outlines the Department's responsibilities regarding special education programs and services to students with disabilities. Section 4403(3) authorizes the Department to adopt regulations as the Commissioner deems in their best interest.

Education Law 4410(7) provides that a parent may file a written request with the board of education for an impartial hearing with respect to any matter relating to the identification, evaluation or educational placement of, or provision of a free appropriate public education to preschool students with disabilities. Subdivision (14) authorizes the Commissioner to adopt regulations to implement the such statute.

2. LEGISLATIVE OBJECTIVES:

The proposed amendments are consistent with the above statutory authority and are necessary to address numerous issues resulting from the

interruptions caused by the COVID-19 crisis. The purpose of the proposed amendment is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to prepare for the reopening of schools.

3. NEEDS AND BENEFITS:

On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the school year and summer school and directing nonessential work personnel to work from home. In response, the Department adopted emergency regulations at the April, May and June 2020 Board of Regents Meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. To address additional issues resulting from the interruptions caused by the COVID-19 crisis, and to plan for the reopening of schools the Department is proposing further emergency regulatory amendments providing flexibility related to the following:

- Academic Intervention Services (AIS) determinations;
- Home instruction programs deadline for submission of the written notice of intention to instruct at home;
- School health screening waivers;
- Definition of the unity of study;
- Career development and occupational studies work-based learning experience hours;
- Science laboratory experience;
- Diagnostic screening for new school entrants;
- Psychological evaluations for students referred for being suspected of having a disability;
- Student observation for an initial evaluation of a student suspected of having a disability;
- Incidental teaching;
- Substitute teaching;
- Shorter semester for institutions of higher education;
- Class sizes for 3-year olds and 4-year olds;
- Process for initial enrollment, reentry identification and parent notification, orientation, and placement of English Language Learners (ELLs), identification of ELLs with inconsistent/interrupted formal education, and the timeline for review of ELLs identification; and
- School bus drills.

4. COSTS:

- a. Costs to State government: The amendments do not impose any costs on State government.
- b. Costs to local government: The amendments do not impose any costs on local government.
- c. Costs to private regulated parties: The amendments do not impose any costs on private regulated parties.
- d. Cost to the regulatory agency: There are no additional costs to the State Education Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government.

6. PAPERWORK:

The proposed amendment does not impose any additional paperwork requirements.

7. DUPLICATION:

The proposed amendment does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:

The proposed amendments are necessary to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. There are no significant alternatives to the proposed amendment and none were considered.

9. FEDERAL STANDARDS:

There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:

It is anticipated that the proposed amendment will be presented to the Board of Regents for adoption at its December 2020 meeting. If adopted at the December 2020 meeting, the proposed amendment will become effective on December 30, 2020. It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

Regulatory Flexibility Analysis

(a) Small businesses:

The proposed rule relates to providing flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. The proposed amendments do not impose any adverse economic impact, reporting, recordkeeping or any other compliance requirements on small businesses. Because it is evident from the nature of

the proposed amendments that they do not affect small businesses, no further measures were needed to ascertain that fact, and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

(b) Local governments:

1. EFFECT OF RULE:

The purpose of the proposed amendments is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. The proposed amendments apply to each of the 695 public school districts in the State.

2. COMPLIANCE REQUIREMENTS:

On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the school year and summer school and directing nonessential work personnel to work from home. In response, the Department adopted emergency regulations at the April, May and June 2020 Board of Regents Meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. To address additional issues resulting from the interruptions caused by the COVID-19 crisis, and to plan for the reopening of schools the Department is proposing further emergency regulatory amendments providing flexibility related to the following:

- Academic Intervention Services (AIS) determinations;
- Home instruction programs deadline for submission of the written notice of intention to instruct at home;
- School health screening waivers;
- Definition of the unity of study;
- Career development and occupational studies work-based learning experience hours;
- Science laboratory experience;
- Diagnostic screening for new school entrants;
- Psychological evaluations for students referred for being suspected of having a disability;
- Student observation for an initial evaluation of a student suspected of having a disability;
- Incidental teaching;
- Substitute teaching;
- Shorter semester for institutions of higher education;
- Class sizes for 3-year olds and 4-year olds;
- Process for initial enrollment, reentry identification and parent notification, orientation, and placement of English Language Learners (ELLs), identification of ELLs with inconsistent/interrupted formal education, and the timeline for review of ELLs identification; and
- School bus drills.

3. PROFESSIONAL SERVICES:

The proposed amendment does not impose any additional professional services requirements on local governments.

4. COMPLIANCE COSTS:

The proposed amendment will not impose any additional program, service, duty, responsibility or costs beyond those imposed by statute.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed rule does not impose any additional costs or technological requirements on local governments.

6. MINIMIZING ADVERSE IMPACT:

The proposed amendments are necessary to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. Accordingly, no alternatives were considered.

7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State and from the chief school officers of the five big city school districts.

Rural Area Flexibility Analysis

The purpose of the proposed amendments to the Regulations of the Commissioner of Education is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the school year and summer school and directing nonessential work personnel to work from home. In response, the Department adopted emergency

regulations at the April, May and June 2020 Board of Regents Meetings to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. To address additional issues resulting from the interruptions caused by the COVID-19 crisis, and to plan for the reopening of schools the Department is proposing further emergency regulatory amendments providing flexibility related to the following:

- Academic Intervention Services (AIS) determinations;
- Home instruction programs deadline for submission of the written notice of intention to instruct at home;
- School health screening waivers;
- Definition of the unity of study;
- Career development and occupational studies work-based learning experience hours;
- Science laboratory experience;
- Diagnostic screening for new school entrants;
- Psychological evaluations for students referred for being suspected of having a disability;
- Student observation for an initial evaluation of a student suspected of having a disability;
- Incidental teaching;
- Substitute teaching;
- Shorter semester for institutions of higher education;
- Class sizes for 3-year olds and 4-year olds;
- Process for initial enrollment, reentry identification and parent notification, orientation, and placement of English Language Learners (ELLs), identification of ELLs with inconsistent/interrupted formal education, and the timeline for review of ELLs identification; and
- School bus drills.

The proposed amendment provides flexibility for certain regulatory requirements during the COVID-19 crisis and plans for the reopening of schools. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The purpose of the proposed amendments is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis and to plan for the reopening of schools. The proposed amendment provides flexibility related to the following:

- Academic Intervention Services (AIS) determinations;
- Home instruction programs deadline for submission of the written notice of intention to instruct at home;
- School health screening waivers;
- Definition of the unity of study;
- Career development and occupational studies work-based learning experience hours;
- Science laboratory experience;
- Diagnostic screening for new school entrants;
- Psychological evaluations for students referred for being suspected of having a disability;
- Student observation for an initial evaluation of a student suspected of having a disability;
- Incidental teaching;
- Substitute teaching;
- Shorter semester for institutions of higher education;
- Class sizes for 3-year olds and 4-year olds;
- Process for initial enrollment, reentry identification and parent notification, orientation, and placement of English Language Learners (ELLs), identification of ELLs with inconsistent/interrupted formal education, and the timeline for review of ELLs identification; and
- School bus drills.

Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

Assessment of Public Comment

The agency received no public comment.

**NOTICE OF EMERGENCY
ADOPTION
AND REVISED RULE MAKING
NO HEARING(S) SCHEDULED**

Addressing the COVID-19 Crisis

I.D. No. EDU-16-20-00002-ERP

Filing No. 745

Filing Date: 2020-11-17

Effective Date: 2020-11-17

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action Taken: Amendment of sections 52.3, 52.21, 57-4.5, 70.4, 74.6, 75.2, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 80-1.5, 80-1.13, 80-3.15, 80-4.3, 83.5, 87.2, 87.5, 100.2, 100.4, 100.5, 100.6, 100.10, 100.21, 119.1, 119.5, 125.1, 151-1.4, 154-2.3, 175.5, 200.4, 200.5, 200.7, 200.20, 275.8; addition of section 279.5 to Title 8 NYCRR.

Statutory authority: Education Law, sections 101, 112, 207, 208, 215, 301, 305, 310, 311, 1704, 1709, 2117, 2651, 2852, 2854, 2856, 3001, 3001-d, 3003, 3004, 3004-c, 3009, 3035, 3204, 3205, 3210, 3212, 3214, 3602, 3602-c, 3602-e, 3604, 3713, 4402, 4403, 4404, 4410, 6501, 6504, 6506, 6507, 7404, 7904, 7904-a and 8206

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020, the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis, including orders directing the closure of schools for the remainder of the school year and summer school and directing nonessential work personnel to work from home. In response, the Department adopted emergency regulations at the April, May, June, July, September, and October 2020 Board of Regents meetings to address numerous issues resulting from the interruptions caused by the COVID-19 Crisis. The Department originally presented this proposed amendment to the Full Board for adoption as an emergency action at its April 2020 meeting, effective April 7, to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. At the May, June, July, September, and October 2020 Board of Regents meetings, the Department revised the proposed emergency regulation to provide clarification and additional flexibility for regulatory requirements in response to the COVID-19 crisis. The Department is now making additional revisions to the proposed emergency regulation to provide additional regulatory flexibility relating to service of appeals to the Commissioner pursuant to Education Law § 310 and for the following Bilingual Education timelines: English Language Learner (ELL) identification process timeline, parental notification and information timeline, and the English as a New Language/Bilingual Education placement timeline. The proposed amendment provides regulatory flexibility related to the following:

- Instructional day and hour requirements;
- The service of pleadings and supporting papers for appeals to the Commissioner pursuant to Education Law § 310;
- Charter school lotteries, reporting requirements, and payments by public school districts to Charter schools;
- Annual visits to nonpublic nursery schools and kindergartens by Department staff;
- Annual assessments for homeschool students;
- Continuous experience requirements for certain professions;
- Examination timeframe requirements for Public Accounting applicants;
- Educational program requirements for licensure in a profession under Title VII of the Education Law;
- In-person supervision experience requirements for certain professions;
- Filing and submission timelines for Part 83 and Part 87 appeals to the Commissioner;
- The definition of the term “prospective school employee”;
- Certain procedures and timeframes for special education due process hearings;
- Timeframes related to special education programs and services;
- Filings with the Office of State Review;
- Certain timelines relating to Bilingual education;

- English language learners’ annual assessment;
- Unit of study requirements;
- Required Dignity for All Students Act (DASA) training;
- Teacher performance assessments (edTPA);
- Statement of continued eligibility (SOCE) and limited extension application deadline and special education full-time teaching experience deadline; and
- School and district accountability.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (nonemergency) adoption, after publication in the State Register and expiration of the 45-day public comment period required in the State Administrative Procedure Act (SAPA) section 201(4-a), is the February 2021 Regents meeting. However, because the COVID-19 crisis is presently affecting the State of New York, emergency action is necessary for the preservation of public health and the general welfare in order to immediately provide flexibility for certain regulatory requirements in response to the COVID-19 crisis.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the February 2021 Regents meeting, which is the first scheduled meeting after the 45-day public comment period prescribed in SAPA for State agency rule makings. However, since the emergency regulation will expire before the February meeting, it is anticipated that an additional emergency action will be presented for adoption at the January 2021 Regents meeting.

Subject: Addressing the COVID-19 Crisis.

Purpose: To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis.

Substance of emergency/revised rule (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rulesandregs>): On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency. On March 7, 2020 the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Therefore, it is necessary for the Department to adopt emergency regulations to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The proposed revisions are summarized as follows:

- State Aid
 - o Permits public school districts, public schools and charter schools to operate for less than 180 days during the 10 month school year for any school day that is closed pursuant to an Executive Order for the COVID-19 crisis and waived from the 180-day requirement pursuant to the terms of such Executive Order(s).
 - o Provides a waiver from the annual instructional hour requirement for the 2019-20 and 2020-21 school years if a school district is unable to meet such requirement due to an Executive Order(s) of the Governor pursuant to the State of emergency declared for the COVID-19 crisis, or pursuant to Education Law § 3604(8), or due to reopening procedures implemented as a result of the COVID-19 crisis, provided that the district meets certain prescribed requirements.
- 310 Appeals to the Commissioner
 - o Permits service of pleadings and supporting papers for appeals to the Commissioner pursuant to Education Law § 310 by alternative means during the State of Emergency declared by the Governor pursuant to an Executive Order regarding the COVID-19 crisis.
- Charter Schools
 - o Permits the Commissioner to excuse delays in required reporting by charter schools to public schools for the length of time of a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis, provided such delay does not exceed 30 days. When there is a delay in reporting by a charter school, the amendments also permit the Commissioner to excuse any delay in payment by a public school to a charter school, provided such delay does not exceed 30 days.
 - o Requires charter schools to provide notice on their website of the date, time and place of lotteries for the random selection process for charter school student applicants if such lottery is provided during a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis. Additionally, the amendments permit such lotteries to be held remotely, provided that the public has the opportunity to view or listen and such lottery is recorded and later transcribed.
- Early Learning
 - o Permits prekindergarten programs to operate for less than the 180-day and 90-day requirements where such programs were scheduled to operate, but the school where such program operates is closed pursuant to an Executive Order of the Governor pursuant to the State of emergency for the COVID-19 crisis.
 - o Permits Department staff who are unable to conduct their annual visit of nonpublic nursery schools and kindergartens in the 2019-20 and/or

2020-21 school year due to the COVID-19 crisis, to conduct such annual visit as soon as practicable.

- Home Instruction
 - o Provides that home instruction programs shall be exempt from the annual assessment and alternative evaluation requirements for the 2019-20 school year where a student otherwise achieves the learning outcomes in accordance with their individualized home instruction plan (IHIP).
- Professions
 - o Allows the Department to excuse the continuous experience requirements for speech language pathology, audiology, and occupational therapy where such continuous experience cannot be completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.
 - o Allows the Department to accept passing examination scores from Public Accounting applicants that are outside the required 18 month examination window where such examinations cannot be completed within 18 months due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.
 - o Allows the Department to modify professional educational program requirements for licensure, to the extent authorized by law, if such requirements cannot be successfully completed due to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.
 - o Grants an exemption for in person supervision experience requirements for licensed clinical social work, licensed master social work, mental health counseling, marriage and family counseling, creative arts therapy, and psychoanalysis if such in person supervision cannot be completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.
- Part 83 and Part 87 Appeals
 - o Permits the Commissioner to excuse the filing timeframes prescribed in such section relating to appeals to the Commissioner of a hearing officer's determination of good moral character where such late filings are due to the State of emergency declared by the Governor pursuant to the an Executive Order for the COVID-19 crisis.
 - o Permits: (i) the Department to excuse late submissions relating to due process procedures for prospective employees' clearance for employment; and (ii) the Commissioner's designee to excuse late submissions relating to appeals of the Department's determination to deny prospective school employees' clearance for employment where such submissions are late due to the State of emergency declared by the Governor pursuant to the an Executive Order for the COVID-19 crisis.
 - o Adds to the definition of "prospective school employee" any individual who will reasonably be expected to provide services which involve online communication or interaction directly to students under the age of 21 during the period of a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis.
- Special Education
 - o Ensures that State approved private schools, State operated schools, Special Act School Districts, State supported schools and preschools to operate for less than 180 days during the 10 month school year for any school day that is closed pursuant to an Executive Order for the COVID-19 crisis and waived from the 180-day requirement pursuant to the terms of such Executive Order(s).
 - o Allows impartial hearing officers to conduct special education due process hearings by video conference during the COVID-19 crisis.
 - o Allows hearing officers to extend cases up to 60 days rather than 30 days during the State of emergency declared by the Governor for the COVID-19 crisis. This allows Impartial Hearing Officers better flexibility while school witnesses, administrators and parents are unavailable to partake in due process hearings.
 - o Requires preschool providers to make-up missed services within 30 days of the missed session. The proposed amendment will not include days that the school is closed pursuant to an Executive Order of the Governor issued pursuant to a State of emergency for the COVID-19 crisis.
 - o Extends the time period to arrange for special education programs and services to be provided to a student with a disability from 60 school days of receipt of consent to evaluate so that the 60 days will not include any day(s) that such school is closed pursuant to an Executive order issued by the Governor pursuant to a State of emergency for COVID-19. As well, 30 school days will be extended for arranging an approved non-public school placement.
- Office of State Review
 - o Provides that a State Review Officer may authorize certain filings through electronic means during the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.
- Bilingual Education
 - o Provides that any day(s) where a school is closed pursuant to an Executive Order of the Governor pursuant to a State of emergency for the

COVID-19 crisis and any day(s) where a school or local educational agency central office, where such office is responsible for implementing and completing the English Language Learner (ELL) identification process, has temporarily shifted from in-person or hybrid instruction to full remote instruction due to and increase in COVID-19 cases do not count towards the following timelines: English language learner identification process timeline; parental notification and information timeline, and the English as a New Language/Bilingual Education placement timeline.

- o Provides an exemption to students from the unit of study requirements for the 2019-2020 school year where a student is unable to meet such requirements due to schools being closed pursuant to an Executive Order of the Governor pursuant to the State of emergency for the COVID-19 crisis and where such student otherwise achieves the learning outcomes for such course of study.
 - o Provides that for the 2019-2020 school year, there will be no English language learner annual assessment due to such assessment being suspended as result of the COVID-19 crisis.
 - Curriculum and Instruction
 - o Provides an exemption to students from the unit of study requirements for the 2019-2020 school year where a student is unable to meet such requirements due to schools being closed pursuant to an Executive Order of the Governor pursuant to the State of emergency for the COVID-19 crisis and where such student otherwise achieves the learning outcomes of such portion of unity of study completed.
 - Higher Education
 - o Permits the Dignity for All Students Act (DASA) training to be conducted entirely online during the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.
 - o Creates an edTPA safety net for: (i) candidates in registered educator preparation programs (EPPs) in the Spring 2020 or Summer 2020 terms, who completed a student teaching or similar clinical experience during the Spring 2020 or Summer 2020 terms; (ii) candidates who complete a student teaching or similar clinical experience during the 2020-2021 academic year while enrolled in a New York State registered teacher preparation program; (iii) candidates who complete a student teaching experience during the 2020-2021 academic year while enrolled in an acceptable out-of-state teacher preparation program; or (iv) candidates who complete the teaching experience requirement for certification through the individual evaluation pathway during the 2020-2021 academic year and could not complete their teacher performance assessment as a result of the COVID-19 crisis. These candidates would be able to take and pass either the ATS-W or edTPA. Eligible candidates who choose to take the edTPA but do not pass it, could take and pass the ATS-W, or pursue the edTPA Multiple Measures Review Process (MMRP), if they qualify.
 - o Extends the SOCE application deadline from June 30, 2020 to June 30, 2021 so that school districts have time to identify staff who are eligible for the SOCE, inform them about the application process and any supports provided, and submit the materials needed for applications since school districts are losing time during the COVID-19 crisis as the SOCE deadline approaches.
 - o For the SOCE and limited extension, special education teachers must complete their satisfactory full-time teaching experience, while being considered Highly Qualified through passing a HOUSSSE rubric in the subject area, prior to June 30, 2020. The Department is proposing to extend the time period by which the experience must be completed to June 30, 2021, giving teachers the opportunity to gain more full-time satisfactory teaching experience for the SOCE or limited extension as they are losing time to do so during the COVID-19 crisis.
 - Accountability
 - o The federal government has approved the Department's application for a one-year waiver from provisions of the Every Student Succeeds Act (ESSA) pertaining to State assessments and school and district accountability determinations due to the unique circumstances that have arisen as a result of the COVID-19 crisis. Therefore, the Department is proposing to provide that the Commissioner shall not conduct a review of school and district performance using 2019-2020 school year result, the accountability status of public schools and districts for the 2020-2021 school year shall be the same as for the 2019-2020 school year, and the 2018-2019 school year results shall be used in any instance for which 2019-2020 school year results would have been used as part of the process of making 2021-2022 school year accountability determinations. Additionally, the Commissioner may, upon a finding of good cause, modify for the 2019-2020 through 2021-2022 school years any timelines pertaining to notifications, plans, reports, or implementation of activities required by such section.
- This notice is intended** to serve as both a notice of emergency adoption and a notice of revised rule making. The notice of proposed rule making was published in the *State Register* on April 22, 2020, I.D. No. EDU-16-20-00002-EP. The emergency rule will expire January 15, 2021.

Revised rule making(s) were previously published in the State Register on September 30, 2020.

Emergency rule compared with proposed rule: Substantial revisions were made in sections 154-2.3(a)(5), 154-2.3(b), 154-2.3(f)(3), 154-2.3(g)(1) and 275.8.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Julia Patane, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 148EB, Albany, NY, (518) 474-6400, email: REGCOMMENTS@nysed.gov

Public comment will be received until: 45 days after publication of this notice.

Revised Regulatory Impact Statement

Since the publication of a Notice of Emergency Adoption and Revised Rule Making in the State Register on November 4, 2020, substantial revisions were made to section 275.8 of the Commissioner's regulations relating to service of appeals to the Commissioner pursuant to section § 310 of the Education Law and section 154-2.3(a)(5), (b), (f)(3), and (g)(1) of the Commissioner's regulations relating to certain Bilingual Education timelines in order to provide additional regulatory flexibility during the COVID-19 crisis.

These substantial revisions do not require any changes to the previously published Regulatory Impact Statement.

Revised Regulatory Flexibility Analysis

Since the publication of a Notice of Emergency Adoption and Revised Rule Making in the State Register on November 4, 2020, substantial revisions were made to section 275.8 of the Commissioner's regulations relating to service of appeals to the Commissioner pursuant to section § 310 of the Education Law and section 154-2.3(a)(5), (b), (f)(3), and (g)(1) of the Commissioner's regulations relating to certain Bilingual Education timelines in order to provide additional regulatory flexibility during the COVID-19 crisis.

These substantial revisions do not require any changes to the previously published Regulatory Flexibility Analysis for Small Businesses and Local Government.

Revised Rural Area Flexibility Analysis

The purpose of the proposed amendments to the Regulations of the Commissioner of Education is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis. On January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern. On March 7, 2020 the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202. Subsequently, the Governor issued additional Executive Orders in response to the COVID-19 crisis including orders directing the closure of schools, directing non-essential work personnel to work from home, and directing non-essential gatherings of individuals of any size for any reason to be canceled or postponed. As a result, it is necessary for the Department to adopt emergency regulations to address numerous issues resulting from the interruptions caused by the COVID-19 crisis. The proposed amendment provides flexibility related to the following:

- Instructional day and hour requirements;
- The service of pleadings and supporting papers for appeals to the Commissioner pursuant to Education Law § 310;
- Charter school lotteries, reporting requirements, and payments by public school districts to Charter schools;
- Annual visits to nonpublic nursery schools and kindergartens by Department staff;
- Annual assessments for homeschool students;
- Continuous experience requirements for certain professions;
- Examination timeframe requirements for Public Accounting applicants;
- Educational program requirements for licensure in a profession under Title VII of the Education Law;
- In person supervision experience requirements for certain professions;
- Filing and submission timelines for Part 83 and Part 87 appeals to the Commissioner;
- The definition of the term "prospective school employee";
- Certain procedures and timeframes for special education due process hearings;
- Timeframes related to special education programs and services;
- Filings with the Office of State Review;
- Certain timelines relating to Bilingual education;
- English language learners' annual assessment;
- Unit of study requirements;

- Required Dignity for All Students Act (DASA) training;
- Teacher performance assessments (edTPA);
- Statement of continued eligibility (SOCE) and limited extension application deadline, and special education full-time teaching experience deadline; and
- School and district accountability.

The proposed amendment provides flexibility for certain regulatory requirements during the COVID-19 crisis. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

Revised Job Impact Statement

The purpose of the proposed amendments is to provide flexibility for certain regulatory requirements in response to the COVID-19 crisis. The proposed amendment provides flexibility related to the following:

- Instructional day and hour requirements;
- The service of pleadings and supporting papers for appeals to the Commissioner pursuant to Education Law § 310;
- Charter school lotteries, reporting requirements, and payments by public school districts to Charter schools;
- Annual visits to nonpublic nursery schools and kindergartens by Department staff;
- Annual assessments for homeschool students;
- Continuous experience requirements for certain professions;
- Examination timeframe requirements for Public Accounting applicants;
- Educational program requirements for licensure in a profession under Title VII of the Education Law;
- In person supervision experience requirements for certain professions;
- Filing and submission timelines for Part 83 and Part 87 appeals to the Commissioner;
- The definition of the term "prospective school employee";
- Certain procedures and timeframes for special education due process hearings;
- Timeframes related to special education programs and services;
- Filings with the Office of State Review;
- Certain timelines relating to Bilingual education;
- English language learners' annual assessment;
- Unit of study requirements;
- Required Dignity for All Students Act (DASA) training;
- Teacher performance assessments (edTPA);
- Statement of continued eligibility (SOCE) and limited extension application deadline, and special education full-time teaching experience deadline; and
- School and district accountability.

Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program

I.D. No. EDU-48-20-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 90.19 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 208, 215, 253-268, 271-273, 273-a, 282, 283, 284 and 285

Subject: Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program.

Purpose: Update and clarify certain terminology related to the use of technology in libraries and to reflect new technologies.

Text of proposed rule: Section 90.19 of the Regulations of the Commissioner of Education is amended to read as follows:

§ 90.19 [Grants for] *State aid for regional bibliographic data bases and interlibrary resources sharing*

(a) Definitions.

As used in this section and in Education Law, section 273(6):

(1) Regional bibliographic data bases or *databases* [means machine-readable files of bibliographic records and holdings of libraries] *means the storage and access of digital records, assets, collections, and information resources* within a reference and research library resources system region[, including public, academic, school and special libraries] *through its member organizations.*

(2) Region means the geographic area served by an approved reference and research library resources system *including its member organizations.*

(3) Library automation means [the application of computer and telecommunications technology to bibliographic control, data base access, resource sharing and other electronic communication or transmission] *to store and access digital records, assets, collections, and information resources* for the purpose of improving and enhancing services to library users.

(4) [Automated circulation system means the application of computer and telecommunications technology to control the circulation of library materials, which may be integrated with other functions in an automated system.

(5) Automated system means the application of computer and telecommunications technology to library functions, including control of circulation of library materials, acquisitions, cataloging, serials control, public access catalog, and similar activities and the integration of these functions into one system.

(6) [Automation program means an organized plan applying [automation to library functions to promote bibliographic control, data base access, resource sharing, and other electronic communication or transmission among the school, public, academic and special libraries within a region] *technology to promote resource sharing among all types of libraries and increase visibility of regional and statewide digital records, assets, collections, and information resources.*

(7) Five-year plan] (5) *Approved Plan of Service* means [a regional library automation program which addresses the development and management of a regional bibliographic data base, access to this and other data bases, resource sharing, and other electronic communication or transmission and which incorporates the public library systems, school library systems, and other libraries within the region] *the reference and research library resources system's plan of service submitted to the State Library pursuant to Education Law § 272(2)(d).*

(8) Annual plan means a plan submitted by a reference and research library resources system which covers the current year of the five-year plan.

(9) Electronic doorway library means a library which enhances information retrieval and resource sharing for its users based upon two-way electronic capability, into and out of the library.

(10) Statewide electronic library network] (6) *Statewide library cooperation* means a [virtual network which includes existing and future physical networks in the State applicable for library purposes] *collaborative physical and virtual network which is applicable for exposing digital records, assets, collections, and information resources.* The key concept underlying the network is interconnectivity among separate [physical] networks [thus, in effect, resulting in one logical statewide network for libraries].

(7) *National standards and best practices mean the standards agreed upon by the National Information Standards Organization (NISO). In cases where there is not yet a national standard there are often best practices that are developed when standards cannot keep up with rapid changes in technology. These best practices often are agreed upon by professional organizations.*

(b) [Plans] *Inclusion in Plan of Service.*

(1) [Each reference and research library resources system shall submit for approval a five-year plan for the regional bibliographic data bases and interlibrary resources sharing program pursuant to Education Law, section 273(6)(b), in a form and by a date prescribed by the commissioner. Such plans shall be developed and kept current through amendments made with the ongoing participation of libraries and library systems in the region. Amendments to the five-year plan shall be in a form and submitted for approval by a date prescribed by the commissioner. The board of trustees of the reference and research library resources system shall submit to the commissioner such evidence of participation of libraries and other library systems as he or she may require. Such participation shall include consultation with an automation committee, composed of representatives of all types of libraries and library systems in the region, which shall be established for such purpose.] *Pursuant to Education Law § 273 (6)(b), each reference and research library resources system shall submit as part of their plan of service, in a form and by a date prescribed by the commissioner, proposals as to how the system will manage an automation program and use technology to promote resource sharing in the region and statewide.*

(2) [An annual plan and budget, consistent with the five-year plan for

a regional automation program, shall be submitted by each reference and research library resources system seeking a grant pursuant to Education Law, section 273(6)(a)(1). Such annual plans and budgets shall be developed in consultation with and the ongoing participation of an automation committee representative of all types of libraries and library systems in the region and shall be submitted in a form and in accordance with a timetable prescribed by the commissioner] *The elements and format of such plan of service related to the regional bibliographic and interlibrary resources sharing program shall be determined by the commissioner.*

[(3) For each public library system seeking a grant pursuant to Education Law, section 273(6)(a)(2), an acceptable plan for an automation program shall be the approved plan referred to in Education Law, section 273(1).]

(c) [Elements of a five-year plan

Five-year plans and amendments shall provide a description of current library automation in the region, of library automation needs and of proposed actions, and shall include, but need not be limited to:

(1) the number of machine-readable bibliographic records and holdings already in existence in the region, and the number of bibliographic records and holdings to be converted to machine-readable form;

(2) a description of the means of maintaining and updating bibliographic data bases;

(3) a description of the means of accessing bibliographic and other data bases including any interfaces between or among data bases, and the availability of materials represented in these data bases;

(4) a description of the process and mechanisms used to share or obtain resources, the effect on resource sharing or usage patterns, and a description of electronic communication or transmission used for these or other purposes;

(5) a description of regional library automation goals and objectives for the five-year period, including the anticipated progress during this period toward enabling all libraries in the region to become electronic doorway libraries;

(6) a year-by-year projection of library automation activities, which in years two through five of the plan may be revised or expanded through amendments;

(7) evidence that all types of libraries and library systems in the region participated in the development of the plan, and that the plan takes into account the automation needs of and is equitable for all types of libraries and library systems;

(8) evidence that the plan will improve the quality of library service available to residents of the region;

(9) methods of and participants involved in monitoring and evaluating accomplishments.

(d) Criteria for approval of plans, amendments, annual plans and budgets. Approval of five-year plans, amendments, annual plans, and budgets shall be based on the following criteria:

(1) the goals and objectives of the automation program;

(2) the comprehensiveness of the plan including the number and types of participants, the number of records and holdings and type(s) and subject area(s) of materials to be converted, and the activities other than conversion of records and holdings; and

(3) how bibliographic or other data will be accessed and the anticipated increase in resource sharing or change in usage patterns;

(4) the potential for stimulating cooperation among libraries, and the importance to intersystem and inter-type library resource sharing;

(5) the impact on enabling libraries to become electronic doorway libraries or to expand upon existing electronic doorway library services provided or obtained on or through the statewide Electronic Library Network;

(6) activities involving professional development, education, and training;

(7) the cost(s) to implement;

(8) the libraries participating in and/or benefitting from each project, and the impact on service to users of these libraries;

(9) the specificity and supporting data provided, including the staffing required and processes to be followed in carrying out the proposed projects; and

(10) the adequacy of the evaluation procedures used to measure achievement of the stated goals and objectives, including the participants involved.] *Eligibility Criteria.*

(1) *In order to be eligible for State aid for an automation program pursuant to subdivision 6 of section 273 of the Education Law, a reference and research library resources system shall:*

(a) *be operating under an approved plan of service pursuant to paragraph d of subdivision 2 of section 272 of the Education Law;*

(b) *submit an approvable prior year library system annual report and current year budget;*

(c) *submit an approvable annual application for such formula aid;*

(d) *provide program assurances and information as requested by the commissioner; and*

(e) show evidence of member input.

[(e) Standards and requirements for library automation projects.] (d) *Automation Program Purposes.*

[(1) Bibliographic records and holdings and telecommunications-interoperability procedures shall be created and maintained in a form which, in the determination of the commissioner, assures regional and intersystem statewide compatibility] *Reference and research library systems applying for formula funds under Education Law § 273(6) may use such funds for the collaborative purpose of helping its members employ technology and tools to provide and/or improve access to and storage of digital records, assets, collections, and information resources while adhering to national standards and best practices for enhancing resource sharing and access to information.*

[(2) Bibliographic records converted through the use of these funds shall be made available, for the purpose of resource sharing, to the State library without charge other than the cost of duplicating such records.]

[(f)](e) *Applications and Reports.*

[Each reference and research library resources system which receives an annual grant for regional bibliographic data bases and interlibrary resources sharing shall submit in a form and in accordance with a timetable prescribed by the commissioner, progress reports on the project.]

(1) *The commissioner shall determine the format and timetable for the submission of applications and reports.*

(2) *The commissioner may request any other reports that the commissioner shall deem necessary to carry out the purpose of this program.*

Text of proposed rule and any required statements and analyses may be obtained from: Lauren Moore, NYS Education Department, Cultural Education Center, 222 Madison Ave, Room 10C34, Albany NY, 12230, (518) 486-4865, email: REGCOMMENTS@nysed.gov

Data, views or arguments may be submitted to: Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 208 of the Education Law empowers the Regents to confer diplomas and degrees as they deem proper and to establish examination as to attainments in learning, and award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the prescribed requirements.

Section 215 of the Education Law authorizes the Commissioner of Education to visit, examine, and inspect schools or institutions under the education supervision of the State and require reports from such schools.

Section 254 of the Education Law authorizes the Regents to fix standards of library service for public libraries.

Section 255 of the Education Law provides for the establishment of public libraries and cooperative library systems.

Section 256 of the Education Law provides for rules related to contracts entered by public libraries and cooperative library systems.

Section 257 of the Education Law provides for the acceptance of gifts by public libraries and cooperative library systems.

Section 258 of the Education Law provides for admissions fees for museums.

Section 259 of the Education Law provides for taxes related to a public library.

Sections 260, 260-a, 260-b, and 260-c of the Education Law provide for the actions of the board of trustees for a public library and cooperative library system.

Section 261 of the Education Law provides for the process of adopting a charter for public library trustees.

Section 262 of the Education Law provides for rules surrounding the use of public and Indian libraries.

Section 263 of the Education Law provides for required reports to be made for by certain library and museums.

Section 264 of the Education Law provides for the processes related to library property damages.

Sections 265 and 265-a of the Education Law provide for fines related to misuse of library property and unlawful detention related to a library.

Section 266 of the Education Law provides for transfer of ownership and control of a library.

Section 267 of the Education Law relates to the local neglect of the governance of a public library.

Section 268 of the Education Law provides for the abolition of a public library.

Section 271 of the Education Law relates to the apportionment of state aid to Indian libraries.

Section 272 of the Education Law defines “reference and research library resources systems” and sets forth the conditions under which they are entitled to State aid. Section 272(2)(e) authorizes the Commissioner to adopt regulations to provide the standard of service with which public library systems must comply.

Section 273 of the Education Law provides for state aid to libraries and library systems providing service under an approved plan.

Section 273-a of the Education Law provides for State aid for projects for the installation and infrastructure of broadband services, and for the acquisition of vacant land and the acquisition, construction, renovation or rehabilitation, including leasehold improvements, of buildings of public libraries and public library systems chartered by the Regents of the State of New York or established by act of the Legislature, upon approval by the Commissioner of Education. Subdivision (5) of section 273-a authorizes the Commissioner of Education to adopt rules and regulations as are necessary to carry out the purposes and provisions of this section.

Sections 282, 283, and 284 of the Education Law provide for the establishment and functions of and State aid for school library systems in BOCES, the Big Five city school districts (New York City, Buffalo, Syracuse, Rochester, and Yonkers) and school districts and nonpublic schools enumerated in a school library system plan of service approved by the Commissioner of Education.

Section 285 of the Education Law provides for grants for public libraries cooperating with correctional facilities.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to update and clarify certain terminology related to the use of technology in reference research libraries and to reflect new technologies, best practices and current standards. In addition, the amendment realigns outdated program planning requirements, reporting requirements and eligibility criteria to reflect current practices.

3. NEEDS AND BENEFITS:

The proposed amendment is necessary to update and clarify certain terminology related to the use of technology in reference research library resource systems and to reflect new technologies, best practices and current standards. In addition, the amendment realigns outdated Regional Bibliographic Data Bases and Interlibrary Resources Sharing (RDBD) program planning requirements, reporting requirements and eligibility criteria to reflect current practices.

4. COSTS:

(a) Costs to State government: There are no additional costs to State government.

(b) Costs to local government: There are no additional costs to local government.

(c) Cost to private regulated parties: The proposed amendment does not impose any additional costs on regulated parties.

(d) Cost to the regulatory agency: There are no additional costs to the State Education Department.

The proposed amendment merely updates and clarifies certain terminology related to the use of technology in reference research library resource systems and to reflect new technologies, best practices and current standards. Additionally, the amendment realigns outdated RDBD program planning requirements, reporting requirements and eligibility criteria to reflect current practices. The proposed amendment does not impose any additional costs on the State, local governments, private regulated parties or the State Education Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any program, service, duty, or responsibility on local governments beyond those imposed by statute.

6. PAPERWORK:

The proposed amendment requires that each reference and research library resources system shall submit as part of their plan of service pursuant to Education Law § 272(2)(d), in a form and by such date as prescribed by the commissioner, proposals as to how the system will manage an automation program and use technology to promote resource sharing in the region statewide. Additionally, the proposed amendment provides that in order to be eligible for State aid for an automation program pursuant to Education Law § 273(6) a reference and research library resource system shall:

(a) be operating under an approved plan of service pursuant to paragraph Education Law § 272(2)(d);

(b) submit an approvable prior year library system annual report and current year budget;

(c) submit an approvable annual application for such formula aid;

(d) provide program assurances and information as requested by the commissioner; and

(e) show evidence of member input.

Further, the proposed amendment provides that the Commissioner shall determine the format and timeline for the submission of applications and reports and that the Commissioner may request any other reports deemed

necessary to carry out the purpose of the Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program.

7. DUPLICATION:

The proposed amendment does not duplicate any other existing State or Federal requirements.

8. ALTERNATIVES:

The proposed amendment merely updates and clarifies certain terminology related to the use of technology in reference research library resource systems and reflects new technologies, best practices and current standards. Additionally, the amendment realigns outdated RDBD program planning requirements, reporting requirements and eligibility criteria to reflect current practices. There are no significant alternatives to the proposed amendment and none were considered.

9. FEDERAL STANDARDS:

The proposed amendment does not exceed any minimum standards of the federal government.

10. COMPLIANCE SCHEDULE:

It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

Regulatory Flexibility Analysis

(a) Small Businesses:

The purpose of the proposed amendment is to update and clarify certain terminology related to the use of technology in reference and research library resource systems and to reflect new technologies, best practices and current standards. In addition, the amendment realigns outdated Regional Bibliographic Data Bases and Interlibrary Resources Sharing program (RDBD) planning requirements, reporting requirements and eligibility criteria to reflect current practices. The amendment does not impose any reporting, recordkeeping, or compliance requirements on small businesses and will not have an adverse economic impact on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one was not prepared.

(b) Local Governments:

1. EFFECT OF RULE:

The proposed amendment will affect all counties, cities, villages, towns, school districts or other body authorized to levy and collect taxes, which have established reference and research library resources systems. The reference and research library resources systems (3Rs) are State-funded regional library systems chartered by the New York State Board of Regents and designated to support improved access to information for the people of New York through resource sharing among 23 public library systems, 40 school library systems and over 900 academic, hospital, law, business, large public and special libraries.

2. COMPLIANCE REQUIREMENTS:

The proposed amendment to section 90.19 of the Commissioner's regulations updates and clarifies certain terminology related to the use of technology in reference research library resource systems and reflects new technologies, best practices and current standards. In addition, the amendment realigns outdated RDBD planning requirements, reporting requirements and eligibility criteria to reflect current practices.

The proposed amendment requires that each library system shall submit as part of their plan of service pursuant to Education Law § 272(2)(d), in a form and by such date as prescribed by the Commissioner, proposals as to how the system will manage an automation program and use technology to promote resource sharing in the region statewide. Additionally, the proposed amendment provides that in order to be eligible for State aid for an automation program pursuant to Education Law § 273(6) a reference and research library resource system shall:

(a) be operating under an approved plan of service pursuant to paragraph Education Law § 272(2)(d);

(b) submit an approvable prior year library system annual report and current year budget;

(c) submit an approvable annual application for such formula aid;

(d) provide program assurances and information as requested by the commissioner; and

(e) show evidence of member input.

Further, the proposed amendment provides that the Commissioner shall determine the format and timeline for the submission of applications and reports and that the Commissioner may request any other reports deemed necessary to carry out the purpose of the RDBD Program.

3. PROFESSIONAL SERVICES:

The proposed amendment does not require reference and research library resources systems to employ additional professional services in order to comply.

4. COMPLIANCE COSTS:

The proposed rule does not impose any costs beyond those imposed by State and federal statutes. The proposed amendment merely updates and

clarifies certain terminology related to the use of technology in reference research library resource systems and reflects new technologies, best practices and current standards. Additionally, the amendment realigns outdated RDBD planning requirements, reporting requirements and eligibility criteria to reflect current practices.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed amendment does not impose any new technological requirements or costs on local governments.

6. MINIMIZING ADVERSE IMPACT:

The proposed amendment is necessary to update and clarify certain terminology related to the use of technology in reference research library resource systems to reflect new technologies, best practices and current standards for reference and research library resources systems. Accordingly, no alternatives were considered.

7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from reference and research library resources systems directors in various regions of the State.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed amendment will apply to the nine reference and research library resources systems in New York State, including reference and research library resources systems located in the 44 rural counties with less than 200,000 inhabitants and 71 towns in urban counties with a population density of 150 per square mile or less. The reference and research library resources systems (3Rs) are State-funded regional library systems chartered by the New York State Board of Regents and designated to support improved access to information for the people of New York through resource sharing among 23 public library systems, 40 school library systems and over 900 academic, hospital, law, business, large public and special libraries.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The proposed amendment is necessary to update and clarify certain terminology related to the use of technology in reference research library resource systems and to reflect new technologies, best practices and current standards. In addition, the amendment realigns outdated Regional Bibliographic Data Bases and Interlibrary Resources Sharing (RDBD) program planning requirements, reporting requirements and eligibility criteria to reflect current practices.

The proposed amendment requires that each reference and research library resources system shall submit as part of their plan of service pursuant to Education Law § 272(2)(d), in a form and by such date as prescribed by the Commissioner, proposals as to how the system will manage an automation program and use technology to promote resource sharing in the region statewide. Additionally, the proposed amendment provides that in order to be eligible for State aid for an automation program pursuant to Education Law § 273(6) a reference and research library resource system shall:

(a) be operating under an approved plan of service pursuant to paragraph Education Law § 272(2)(d);

(b) submit an approvable prior year library system annual report and current year budget;

(c) submit an approvable annual application for such formula aid;

(d) provide program assurances and information as requested by the commissioner; and

(e) show evidence of member input.

Further, the proposed amendment provides that the Commissioner shall determine the format and timeline for the submission of applications and reports and that the Commissioner may request any other reports deemed necessary to carry out the purpose of the Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program.

3. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on reference and research library resources systems located in rural areas.

4. MINIMIZING ADVERSE IMPACT:

The proposed amendments are necessary to update and clarify certain terminology related to the use of technology in reference research library resource systems to reflect new technologies, best practices and current standards for reference and research library resources systems. Therefore, no alternatives were considered for reference and research library resources systems located in rural areas.

5. RURAL AREA PARTICIPATION:

The proposed amendment has been sent for comment to reference and research library resources systems directors in various regions of the State, including those in rural areas.

Job Impact Statement

The purpose of the proposed amendment is to update and clarify certain terminology related to the use of technology in reference research library resource systems and to reflect new technologies, best practices and cur-

rent standards. In addition, the amendment realigns outdated Regional Bibliographic Data Bases and Interlibrary Resources Sharing (RBDB) program planning requirements, reporting requirements and eligibility criteria to reflect current practices. Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

Division of Housing and Community Renewal

EMERGENCY RULE MAKING

Schedule of Reasonable Costs for Major Capital Improvements in Rent Regulated Housing Accommodations

I.D. No. HCR-26-20-00012-E

Filing No. 729

Filing Date: 2020-11-13

Effective Date: 2020-11-13

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of sections 2102.11, 2202.28, 2502.10, 2522.11 to Title 9 NYCRR.

Statutory authority: Administrative Code of NYC, sections 26-405(g), 26-511(b), 26-518(a); L. 1946, ch. 274, subd. 4(a), as amended by L. 1950, ch. 250, as amended by L. 1964, ch. 244; L. 1974, ch. 576, section 10a; Omnibus Housing Act, L. 1983, ch. 403, section 28; Housing Stability and Tenant Protection Act, L. 2019, ch. 36, part K; L. 2019, ch. 39, part 36

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: On June 14, 2019, the law which is commonly known as the "Housing Stability and Tenant Protection Act of 2019" or "HSTPA" (Ch. 36 of the Laws of 2019) was enacted. On June 25, 2019, change amendments were enacted, commonly referred to as the "Clean-up Legislation" (Part Q, Ch. 39 of the Laws of 2019). The Legislature has determined that, because of a serious public emergency, the regulation of residential rents and evictions is necessary to prevent the exaction of unreasonable rents and rent increases and to forestall other disruptive practices that would produce threats to public health, safety and general welfare. HSTPA serves to reform and strengthen the rent laws and provide greater protection for tenants. As relevant herein, section K of HSTPA as amended by the Clean Up Legislation modified the requirements landlords must meet to receive rent increases based on major capital improvements and individual apartment improvements. The legislation mandated that the Division of Housing and Community Renewal ("DHCR") promulgate rules and regulations applicable to all rent regulated units that, among other things and as is relevant to this proposed rule, establish a schedule of reasonable costs for major capital improvements which sets a cap on the costs that can be recovered through a temporary major capital improvement increase, based on the type of improvement and its rate of depreciation. The Clean-up Legislation directed the amendment and/or repeal of any rule or regulation necessary for the implementation of HSTPA on and after June 14, 2019 to be made immediately and completed on or before June 14, 2020, provided, however, that in the absence of such rules and regulations, DHCR shall immediately commence and continue implementation of all provisions of HSTPA. Consequently, the proposed rulemaking is immediately necessary to conform with the statutory amendments and to provide the public with the rules necessary to comply with the current legislation. For the aforementioned reasons, DHCR finds that immediate adoption of the rule is necessary for the preservation of the general welfare, and that compliance with the rulemaking procedures set forth in State Administrative Procedure Act section 202(1) would be contrary to the public interest. Given the upcoming statutory deadline, emergency adoption is needed for timely compliance with the legislation. Thus, DHCR finds that the regulation must be adopted and implemented effective June 16, 2020 on an emergency basis, and compliance with the minimum periods of notice, public comment and other requirements of State Administrative Procedure Act section 202(1) would be contrary to the public interest.

Subject: Schedule of Reasonable Costs for Major Capital Improvements in rent regulated housing accommodations.

Purpose: Provide a schedule of reasonable costs for Major Capital Improvements in rent regulated housing accommodations.

Substance of emergency rule (Full text is posted at the following State website: <https://hcr.ny.gov/regulatory-information>): These regulations add Section 2522.11 of the Rent Stabilization Code, Section 2502.10 of the Tenant Protection Regulations, Section 2102.11 of the State Rent and Eviction Regulations and Section 2202.28 of the New York City Rent and Eviction Regulations (herein after referred to as the regulations). The regulations establish a reasonable cost schedule for major capital improvements (MCI) and surrounding procedures for its implementation.

Subdivision (a) provides that the schedule will be set forth in an operational bulletin for three main categories: (1) major systems, (2) façade, parapet and roof, and (3) other systems.

Subdivision (b) provides that each class of MCI may list more detailed types of capital improvements inclusive of additional eligible cost.

Subdivision (c) provides that each MCI cost will be listed by an appropriate unit of measure.

Subdivision (d) notes that the maximum reasonable costs shall be based on DHCR's survey of such costs and shall be published and made available in conjunction with the publication of the regulation.

Subdivision (e) provides there will be a review of the schedule every year.

Subdivision (f) sets forth: (1) the minimal owner requirements for submission and (2) notes that the MCI submission must meet all other regulatory requirements.

Subdivisions (g) and (h) set forth the process to seek a waiver of the schedule with categories for (1) non-landmarked buildings, (2) landmarked buildings, (3) work performed under the auspices of another government agency, and (4) emergency capital improvements. There are also interim rules in this subdivision for pending cases on waiver requests and time limits for making such an application.

Subdivisions (i) and (j) provide that the waiver procedures require expert engineering proof and bids with additional and alternative levels of proof where an owner claims emergency work.

Subdivision (k) provides that the denial of a waiver will limit the amount recoverable to that in the reasonable cost schedule, subject to all other MCI recoupment requirements.

Subdivision (l) notes the location of the DHCR operational bulletin on DHCR's website.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. HCR-26-20-00012-EP, Issue of July 1, 2020. The emergency rule will expire January 11, 2021.

Text of rule and any required statements and analyses may be obtained from: Michael Berrios, NYS Homes and Community Renewal, 92-31 Union Hall Street, Jamaica, NY 11433, (718) 262-4816, email: michael.berrios@nyshr.org

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of emergency rule making, I.D. No. HCR-26-20-00012-EP, Issue of July 1, 2020.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. HCR-26-20-00012-EP, Issue of July 1, 2020.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. HCR-26-20-00012-EP, Issue of July 1, 2020.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of emergency rule making, I.D. No. HCR-26-20-00012-EP, Issue of July 1, 2020.

Assessment of Public Comment

A full assessment of public comments appears on DHCR's website. This synopsis of major comments has been truncated to meet the word limitation required for publication in the State Register.

A Notice of Proposed Rule Making was published in the State Register on July 1, 2020. DHCR received both written comments and verbal comments presented at the September 9, 2020 public hearing regarding the schedule of reasonable costs for major capital improvements ("MCI").

Many comments were not related to the promulgation of the MCI

Schedule of Reasonable Costs and are, therefore, not discussed in this Assessment.

A synopsis of comments that related to the proposed MCI Schedule of Reasonable Costs and DHCR's responses is discussed below with the exception of responses to certain technical comments relating to actual costs or improvements listed in the Schedule as DHCR reserves response for those for a later filing as they are still the subject of review.

Issue #1: Categories and Price Per-Unit Established in Operational Bulletin

Some asserted that the operational bulletin is a legally invalid vehicle for itemization of individual MCI costs and that the allowable cost of each of the numerous potential MCI items must be established and altered only by regulation. Concern was expressed that that the operational bulletin could be subject to change without public input.

DHCR's Response:

The operational bulletin is designed in accordance with Regulation to update annually to reflect reasonable costs and changes thereto. In the regulation and in the accompanying regulatory impact statement (RIS), DHCR commits to issuing any annual update to the operational bulletin upon public notice and an opportunity to comment.

The operational bulletin is a legally valid method for establishing the reasonable cost schedule. The propriety of the mixture of regulatory standards as fixed principles and the embodiment of fact specific numbers in an operational bulletin has been previously upheld against various challenges in litigation as consistent with the State Administrative Procedure Act.

Issue #2: Transparency in Creation of Schedule

Some comments suggested a lack of transparency on the part of DHCR in creating the Schedule. Commenters also suggested DHCR should have included not-for-profit organizations in helping to create the Schedule. Additional comments claimed that DHCR published the Schedule without the opportunity for prior public review. There were also comments asking why DHCR chose a specific engineering firm to assist in creating the Schedule.

DHCR's Response:

DHCR complied with the State Administrative Procedure Act and the Rent Stabilization Law requirements on public notice and comment and is analyzing and reacting to those comments as appropriate. Therefore, all interested individuals and entities were provided the opportunity to provide input regarding the proposed regulation and proposed Schedule.

Prior to the creation and submission of its formal proposal, DHCR met with both owner and tenant advocacy groups as indicated in the accompanying RIS and as authorized by SAPA.

DHCR also consulted with: DASNY, a state agency with an extensive background in New York State construction, and DHCR engineers who service New York Homes and Community Renewals (HCR) affordable housing programs. DHCR also reviewed a cost schedule prepared by a professional engineering firm that has done extensive work with CPC, a not-for-profit affordable housing lender. A record of the groups DHCR met with in person regarding the Regulations can be found here: <https://projects.unlight.ny.gov>.

In selecting the private consultant, DHCR requested bids from engineers, architects, or any professional company that had specialized knowledge in construction in the New York State area to help assist in the creation of the Schedule. The request for bids and selection was made in accord with state procedures.

Issue #3: Is Schedule of Reasonable Costs Aligned with the intent of HSTPA

Commenters suggested that the Schedule should be more in line with the intent of HSTPA. Some seemingly implied that allowable MCI improvements should be limited based a perceived difference between market rate and affordable housing preservation standards.

DHCR's Response:

The Regulation and accompanying schedule conform both to the letter and intent of the HSTPA.

HSTPA provides that DHCR approve MCI costs which are reasonable, and actual and verifiable. The law does not allow for variants in reasonable costs based upon the income strata of the recipients that live in the units covered by the MCI.

Issue #4: General and Specific Concerns Regarding the Schedule

Many comments asserted errors and other issues with the proposed Schedule. Commentators suggested that:

- broadly, the costs reflected in the Schedule were excessive;
- the costs reflected in the Schedule could, in some circumstances, be insufficient or too low;
- greater detail or further breakdown of scheduled costs is needed;
- the Schedule did not account for cost variation based on building size, unit size and other factors;
- costs on the Schedule vary from the costs the commenters provided;
- areas outside of New York City should be separately scheduled from the costs for MCI's within New York City; and

- the Schedule should list every type of MCI and their rate of Internal Revenue Service ("IRS") depreciation.

In providing examples of errors or concerns with the Schedule commenters mentioned scheduled items including: (a) apartment doors, (b) apartment door locks, (c) apartment windows, (d) A/C brackets, (e) caulking, (f) bathroom GFI outlets, and (g) child guards.

DHCR's Response:

DHCR relied on expert opinion and professional guidance to create a cost schedule.

No preestablished schedule or array of schedules can fully account for the combination of factors (including building size, building location, building age, building design, variation in labor costs, material supply shortages, weather, logistical challenges, unique factual circumstances, etc.) that can lead to variations in reasonable cost. To address this, DHCR is establishing in these regulations, the alternative of an individualized process of review where circumstances warrant.

The costs reflected on the Schedule include installations that are MCI eligible and such related costs that are necessary and required to complete the installation of the eligible MCI item. Maintenance costs or cosmetic costs that are not necessary for the eligible MCI item or costs unrelated to the eligible MCI item are not included in the Schedule. Not every item on the Schedule is considered an eligible MCI item in and of itself, some are for items considered necessary and related expenses to eligible MCI items. Only items that are either MCI eligible or necessary related expenses are included in the approved costs for an MCI rent increase.

The unit size is considered in the MCI calculation itself as the MCI rent increase per unit is based on the number of rooms in the unit.

Additional review of these comments is on-going as explained above.

Issue #5: Should Regulations be More Explicit as to the Acceptable Alternative Means to Establish a Waiver

A comment suggested that DHCR should be more explicit as to the acceptable alternative means to establish a waiver related to existing (pre-HSTPA) MCI applications or MCI work. It was specifically requested that a certification by an expert should be accepted to support granting such a waiver.

DHCR Response

Each waiver request must be reviewed on a case by case basis, subject to notice to tenants and possible challenge. It would not be appropriate for DHCR to commit to a single methodology to justify or deny a waiver from the scheduled reasonable costs.

Issue #6: Are Certain Expenses or Items Not Previously Subject to MCI Rent Increases now MCI Eligible?

A comment queried whether the references in various documents to related expenses means that certain expenses not previously subject to MCI compensation may now be MCI eligible by virtue of these articulated DHCR standards. Similar comment suggested several items that do not meet the requirements of an MCI and/or that the costs included in the Schedule do not reflect policy outlined in DHCR's Fact Sheets.

DHCR Response

DHCR is not expanding MCI eligibility to items not previously MCI eligible. The term "related expenses" is used instead to incorporate attendant expenses previously allowed for MCI treatment and not otherwise precluded by HSTPA. Further, just an item being listed on the Schedule does not mean it will categorically be eligible for an MCI rent increase.

Issue #7: General Assertions of Economic Inequity based on HSTPA's Changes to MCI Compensation Structure and Potential Impact on Housing Stock.

There were comments asserting the general unfairness and economic impact surrounding HSTPA's changes significantly limiting owners' ability to recover sums spent on MCI work. At least one comment noted that the application of the Schedule of Reasonable Costs to pending matters at the Rent Administrator's level and related to work commenced or financed in anticipation of the MCI rules remaining unchanged, raises significant constitutional questions under the Regina Metropolitan case.

DHCR Response

Regarding constitutionality and the Regina Metropolitan decision, the Court in Regina Metropolitan drew a distinction between the retroactive creation of overcharge liability for past behavior, as contrasted with to the prospective application of rent increase formulas to applications like those at issue here. Given the past legislative and regulatory history at the time the MCI at issue work was done, owners did not have any reasonable expectation that law and rules governing MCI eligibility would remain constant and not subject to change.

Issue #8: Does Availability of Waivers in Limited Factual Circumstances Align with directives of HSTPA?

Commenters suggested that any waiver or variation attached to implementation of the MCI Schedule of Reasonable Costs is not aligned with HSTPA.

DHCR's Response:

As noted in the RIS, waivers have been a traditional part of MCI

processing where schedules are in use, such as with useful life, in order to create an individualized assessment where necessary.

Issue #9: Should Issuance of MCI Rent-Increase Orders be Delayed Until there is a Finalized Schedule?

Comments suggested that issuance of MCI orders rent-increase orders be delayed until there is a finalized schedule.

DHCR's Response:

HSTPA and SAPA allow for the issuance of MCI rent increases before the promulgation of the Regulations.

Issue #10: MCI Installations Should Not Allow for Limitation of Services

Certain comments alleged that MCI installations are an end-run around of the requirement to provide services and the limitation on additional compensation for services that the owner is already under obligation to maintain.

DHCR's Response:

Owners need to apply with DHCR for modifications in services through a separate application process that adheres to the already established methods of DHCR. Additionally, tenants have the right and the ability to contest MCI applications asserting failure to exhaust useful life or failure to reasonably maintain.

Issue #11: Licensed professional costs

Commenters raised concerns with the costs to owners to certify costs and the need for licensed professionals.

DHCR's Response:

DHCR has previously provided guidance on non-construction costs under Policy Statement 2017-1.

Issue #12: Application of Schedule in pending MCI applications before DHCR RA and on PAR

One commenter requested that the Schedule should be applied retroactively to all pending MCI applications as well as to appeals of prior MCI application decisions (also known as a "Petition for Administrative Review").

DHCR's Response:

DHCR has already issued official guidance on the application of the HSTPA to MCI applications under Fact Sheet #24.

Issue #13: Comments suggested that the Schedule includes matters which have never been or are no longer MCI eligible under the HSTPA

Commentators asserted that DHCR included in the Schedule items that are no longer available for MCI rent increases based on various changes to the MCI definition in HSTPA, most specifically that the improvement be essential for preservation, energy, efficiency, functionality or infrastructure of the entire building and that no increase be approved for group work done in individual apartments that is otherwise not an improvement to the entire building.

DHCR Response:

DHCR eliminated certain items from any consideration in creating its reasonable cost schedule. The rest of the more specific complaints fall within individualized factual assessment under these standards and may also be the subject of additional comment upon the proposal of additional MCI regulations.

tory amendments to 19 NYCRR Part 938, and subsequently published a Revised Rulemaking on November 10, 2020. The regulatory amendments are necessary to clarify and simplify specific provisions of the Lobbying Regulations. This emergency rule is necessary for general welfare and is in the public's interest in order for changes to be effective, at the start of the new biennial registration period, January 1, 2021. Therefore, upon Emergency Adoption, these amendments will be in effect for filings covering activity in 2021-2022, i.e., the Client Semi-Annual Reports due beginning July 15, 2021; the amendments do not apply to the 2020 July-December (or prior) Client Semi-Annual Reports.

Subject: Source of funding reporting.

Purpose: Clarifying amendments to Source of Funding reporting.

Text of emergency rule: Paragraph (1) of subdivision (b) of section 938.2 is amended to read as follows:

(1) A Beneficial Client, as defined in section 3 of Part 943 of this Title, *other than a Public Corporation*; or

Subdivision (e) of section 938.2 is amended to read as follows:

(e) Contribution shall mean any payment to, or for the benefit of, the Client Filer and which is intended to fund, in whole or in part, the Client Filer's activities or operations. Contribution shall include equity investments in limited liability companies, general partnerships, and corporations; provided, however, Contribution shall not include publicly traded stocks or shares. Contribution shall not mean: (i) a payment in exchange for goods or services rendered or delivered directly to the individual or entity making the payment; and (ii) a payment that: (a) is earmarked and conditioned by the payor such that it may only be used for a specific purpose other than lobbying activity in New York; and (b) is maintained in a segregated bank account solely for the specific purpose and unavailable for general operating expenses. For example, an organization that maintains a separate segregated bank account for a lobbying initiative in California need not report a payment earmarked by the payor for this initiative, provided however, that funds from this account may not be used for operating expenses or any other reason other than the California initiative.

(1) Records of such payments must be retained for a period of three years and may be requested by the Commission to verify qualification for this exclusion.

(2) To qualify for the exclusion in subparagraph (ii) above, it is not sufficient for a payor to restrict a payment from being used for lobbying in New York; the payor must earmark the payment for the specific purpose stated in (ii)(a).

Clause (a) is amended and new clause (b) is added to subparagraph (i) of paragraph (1) of subdivision (e) of section 938.3 to read as follows:

(a) A disclosure that identifies an intermediary or any other entity that obscures the name of the person, corporation, partnership, organization, or entity actually making the Contribution, does not qualify as the Source; and

(b) The name of a Source cannot be reported as "anonymous" unless the Client Filer affirms to the Commission that the Client Filer is not able to determine the identity of the Source.

Subdivision (f) of section 938.3 is repealed and current subdivision (g) is re-lettered (f) to read as follows:

(f) [Notwithstanding subsections 938.2(b)(1) and 943.9(h)(1) and (3) of this Title, a Coalition that files its own Client Semi-Annual Report pursuant to subsection 943.9(h)(3)(ii) shall nevertheless be required to disclose its own Sources pursuant to this section if the Coalition reaches the Expenditure Threshold.

(g) Pursuant to sections 1-h(c)(4) and 1-j(c)(4) of the Lobbying Act, source of funding disclosure shall not apply to any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(3) (a "501(c)(3)");

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. JPE-28-20-00031-RP, Issue of November 10, 2020. The emergency rule will expire February 14, 2021.

Text of rule and any required statements and analyses may be obtained from: Megan Mutolo, Associate Counsel, Joint Commission on Public Ethics, 540 Broadway, Albany, New York 12207, (518) 408-3976, email: Megan.Mutolo@jcope.ny.gov

Regulatory Impact Statement

1. Statutory authority: Executive Law Section 94(9)(c) directs the Joint Commission on Public Ethics ("Commission") to adopt, amend, and rescind rules and regulations to govern Commission procedures. Legislative Law section 1-d(a) provides the Commission with the power and the duty to administer Article 1-A of the Legislative Law. Legislative Law sections 1-h(c)(4) and 1-j(c)(4) require certain registered lobbyists, whose lobby-

New York State Joint Commission on Public Ethics

EMERGENCY RULE MAKING

Source of Funding Reporting

I.D. No. JPE-28-20-00031-E

Filing No. 748

Filing Date: 2020-11-17

Effective Date: 2021-01-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 938 of Title 9 NYCRR.

Statutory authority: Executive Law, section 94(9)(c); Legislative Law, sections 1-d(a), 1-h(c)(4) and 1-j(c)(4)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: On July 15, 2020 the Joint Commission of Public Ethics ("Commission") published regula-

ing activity is performed on its own behalf and not pursuant to retention by a client, and clients, who have retained, employed or designated a registered lobbyist, to report the names of each source of funding used to fund lobbying activities if such source meets the criteria set forth in such law. Additionally, Legislative Law sections 1-h(c)(4) and 1-j(c)(4) direct the Commission to promulgate regulations to implement the source of funding requirements.

2. Legislative objectives: The Public Integrity Reform Act of 2011 ("PIRA") established the Commission and authorized the Commission to exercise the powers and duties set forth in Executive Law Section 94 with respect to lobbyists and clients of lobbyists as such terms are defined in article one-A of the Legislative Law. Chapter 286 of the Laws of 2016 also amended the Legislative Law to include a requirement that lobbyists and clients of lobbyists who spend at least \$15,000 (previously \$50,000) in reportable compensation and expenses and 3% of total expenditures on lobbying activities in New York State in a calendar year or twelve-month period (the "\$15,000/3% expenditure threshold"), disclose the sources of funding over \$2,500 (previously \$5,000) from each single source used for such lobbying activities in New York State. Further, it excluded funds received for membership dues, fees and assessments from the contributions that must be disclosed, while continuing to require the donor to be identified as a source. These regulatory amendments further this legislative objective by clarifying the requirements regarding donor disclosure rules.

3. Needs and benefits: The Emergency Rule is necessary to provide clarification to the public and regulated community regarding source of funding disclosure requirements relating to contributions earmarked for activities outside of New York and contributions received from anonymous sources.

4. Costs:

a. Costs to regulated parties for implementation and compliance: Minimal.

b. Costs to the agency, State and local government: No costs to state and local governments.

c. Cost information is based on the fact that there will be no costs to regulated parties and state and local government.

5. Local government mandates: The Emergency Rule does not impose new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This regulation will not impose any additional forms or paperwork.

7. Duplication: This regulation does not duplicate any existing federal, state or local regulations.

8. Alternatives: PIRA created an affirmative duty on the Commission to implement the source of funding requirements. The Emergency Rule clarifies these requirements. Therefore, there is no alternative to amending the Commission's existing regulation.

9. Federal standards: The Emergency Rule pertains to lobbying disclosure requirements that specifically relate to lobbying activity in New York State. These regulations do not exceed any federal minimum standard with regard to a similar subject area.

10. Compliance schedule: Compliance will take effect on January 1, 2021.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis of Small Businesses and Local Governments is not submitted with this Notice of Emergency Adoption because the rulemaking will not impose any adverse economic impacts on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to lobbyists or clients engaged in lobbying activity that exceeds a certain monetary threshold.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Adoption because the rulemaking will not impose any adverse economic impacts on rural, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to lobbyists or clients engaged in lobbying activity that exceeds a certain monetary threshold. Rural areas are not affected in any way.

Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Emergency Adoption because the rulemaking will have limited impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to lobbyists or clients engaged in lobbying activity that exceeds a certain

monetary threshold. This regulation does not apply, nor relate to small businesses, economic development or employment opportunities.

EMERGENCY RULE MAKING

Amendments to the Lobbying Regulations

I.D. No. JPE-28-20-00032-E

Filing No. 747

Filing Date: 2020-11-17

Effective Date: 2021-01-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 943 of Title 9 NYCRR.

Statutory authority: Executive Law, sections (9)(c), 94(1); Legislative Law, section 1-d(a)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: On July 15, 2020 the Joint Commission of Public Ethics ("Commission") published regulatory amendments to 19 NYCRR Part 943, and subsequently published a Revised Rulemaking on November 10, 2020. The regulatory amendments are necessary to clarify and simplify specific provisions of the Lobbying Regulations. This emergency rule is necessary for general welfare and is in the public's interest in order for changes to be effective, at the start of the new biennial registration period, January 1, 2021. Therefore, upon Emergency Adoption, these amendments will be in effect for filings covering activity in 2021-2022, i.e., the amendments are applicable to 2021-2022 Lobbyist Statements of Registration and forward, and Lobbyist Bi-Monthly Reports and Client Semi-Annual Reports due beginning March 15, 2021 and July 15, 2021, respectively; the amendments do not apply to the 2020 November-December (or prior) Lobbyist Bi-Monthly Reports or the 2020 July-December (and prior) Client Semi-Annual Reports.

Subject: Amendments to the lobbying regulations.

Purpose: To clarify the lobbying regulations that implement the provisions of the Lobbying Act.

Substance of emergency rule (Full text is posted at the following State website: www.jcope.ny.gov): The Emergency Rule amends 19 NYCRR Part 943 to further clarify and simplify provisions and requirements relating to the following topics: definitions, direct and grassroots lobbying, social media, procurement lobbying, reportable lobbying activity, and filing requirements. Additional technical amendments are also included.

The definition of Designated Lobbyist is amended to clarify that a person can designate themselves as a designated lobbyist. The definition of Contractual Client is amended to explain that a Contractual Client is the individual or organization that signs and/or enters into a lobbying agreement and that compensation and expenses are typically, but not necessarily, paid for or incurred by the Contractual Client.

The provisions relating to Direct Lobbying are amended to provide that any Individual Lobbyist who engages in Direct Lobbying must be listed on lobbying filings and clarifies that this would not include volunteers or mere members of an organization. The amendments further clarify that mere attendance by an employee or board member, director, or officer of an organization at a lobby day does not constitute Direct Contact requiring such person to potentially be listed as an Individual Lobbyist on a lobbying filing unless such person speaks to a Public Official on behalf of their organization or employer at the lobby day. Additionally, in an effort to simplify the regulations, the "Lobby Day" provisions are incorporated into the principles of Direct Lobbying.

The amendments clarify that Grassroots Lobbying does not require the identification of an Individual Lobbyist on lobbying reports unless the individual engaged in Grassroots Lobbying is a Retained Lobbyist who delivers a Grassroots Lobbying Communication and can be identified as speaking for the Client or is retained or compensated specifically for their personal social media activities. Additionally, the amendments clarify that a person can engage in Grassroots Lobbying on their own behalf.

The provisions relating to social media are simplified to provide that personal social media activities are presumptively not reportable unless a person was retained specifically by a Client for their personal social media. The amendments also clarify that if an organization lobbies on its own behalf using its social media platform, it is reportable by the organization, but no Individual Lobbyists must be listed.

Additional clarifying amendments are included regarding the allowance of an Un-Executed Lobbying Agreement Form, procurement lobbying, reportable lobbying activity and general filing requirements.

Further revisions were made to provisions related to stock options that

clarify the factors the Commission will consider in determining whether stock or equity payments will be permissible as compensation for lobbying.

Additionally, further revisions were made to the Coalition provisions to simplify and clarify how Coalition activity should be reported. Depending on the structure of the Coalition and whether it meets certain criteria, the Coalition will either be required to file as an Organization, or its Members must disclose their Coalition contributions on their own filings.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. JPE-28-20-00032-RP, Issue of November 10, 2020. The emergency rule will expire February 14, 2021.

Text of rule and any required statements and analyses may be obtained from: Megan Mutolo, Associate Counsel, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: megan.mutolo@jcope.ny.gov

Regulatory Impact Statement

1. Statutory Authority: Section 94(1) of the Executive Law provides the Joint Commission on Public Ethics ("Commission") with jurisdiction over lobbyists and clients of lobbyists, as defined by Article 1-A of the Legislative Law (the "Lobbying Act"). Section 94(9)(c) of the Executive Law directs the Commission to adopt, amend, and rescind rules and regulations to govern Commission procedures. Section 1-d(a) of the Lobbying Act provides the Commission with the power and the duty to administer the Lobbying Act. Section 1-r of the Lobbying Act directs the Commission to publish a statement on lobbying regulations setting forth the Act's requirements, including an explanation of the registration and filing requirements and the penalties for violation thereof and such other information as the Commission determines necessary.

2. Legislative Objectives: The Public Integrity Reform Act of 2011 ("PIRA") established the Commission and authorized the Commission to exercise the powers and duties set forth in section 94 of the Executive Law with respect to lobbyists and clients of lobbyists. The Lobbying Act sets forth requirements relating to lobbying activity in New York. Section 1-a of the Lobbying Act provides that, in order to maintain the integrity of governmental decision-making, it is necessary that the identity, expenditures and activities of persons and organizations retained, employed or designated to attempt to influence the passage or defeat of state and local laws, executive orders, rules, or state agency ratemakings be publicly and regularly disclosed. The regulatory amendments further this legislative objective by clarifying the regulations that pertain to lobbying activities in the State.

3. Needs and Benefits: The Emergency Rule amends 19 NYCRR Part 943 to further clarify and simplify provisions and requirements relating to the following topics: definitions, direct and grassroots lobbying, social media, procurement lobbying, reportable lobbying activity, and filing requirements. Additional technical amendments are also included. These regulatory amendments are necessary as they will clarify regulatory requirements and streamline reporting for the regulated community.

4. Costs:

a. Costs to regulated parties for implementation and compliance: Minimal.

b. Costs to the agency, state and local governments for the implementation and continuation of the rule: No costs to such entities.

c. Cost information is based on the fact that this rule continues to implement the requirements set forth in the Lobbying Act, provides further clarification relating to those requirements, and streamlines filing procedures for the regulated community.

5. Local Government Mandates: The Emergency Rule does not impose new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This regulation will likely reduce paperwork as the amendments will streamline requirements for the regulated community and many filers will use the online filing system.

7. Duplication: This regulation does not duplicate any existing federal, state or local regulations.

8. Alternatives: Since the Emergency Rule should further assist both the public and the regulated community in understanding and complying with the Lobbying Act's requirements and, thereby, promote public disclosure of lobbying activities, no other alternatives were considered.

9. Federal Standards: This regulation pertains to requirements that specifically relate to lobbying activity in New York State. This regulation does not exceed any minimum standards of the federal government with regard to a similar subject area.

10. Compliance schedule: Compliance shall take effect on January 1, 2021.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Emergency Adoption because

the Emergency Rule will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears application to lobbyists or clients of lobbyists, including public corporations. It implements current law and, therefore, imposes no new requirements on such entities.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Adoption because the Emergency Rule will not impose any adverse economic impact on rural areas, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears application to lobbyists or clients of lobbyists, including public corporations. It implements current law and, therefore, imposes no new requirements on such entities. Rural areas are not affected.

Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Emergency Adoption because the Emergency Rule will have limited, if any, impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears application to lobbyists or clients of lobbyists, including public corporations. It implements current law and, therefore, imposes no new requirements. This regulation does not relate to job or employment opportunities.

Department of Law

NOTICE OF ADOPTION

Investment Advisers Defined Under General Business Law Section 359-eee

I.D. No. LAW-15-20-00017-A

Filing No. 750

Filing Date: 2020-11-17

Effective Date: 2021-02-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 11 of Title 13 NYCRR.

Statutory authority: General Business Law, section 359-eee(2), (3), (4), (5), (6), (9) and (10)

Subject: Investment advisers defined under General Business Law, section 359-eee.

Purpose: Harmonize regulations with Federal law and national standards and facilitate anti-fraud activities and modernize registration.

Substance of final rule: The public is imperiled when investment professionals are allowed to peddle investment schemes in the shadows and the Attorney General seeks to illuminate such persons and transactions. At the same time, the Attorney General understands that business interests may be impeded when state registration procedures become confusing and antiquated. These rule revisions represent a balancing of these interests in light of the well-established federal securities registration regime.

The Investor Protection Bureau of the Department of Law ("Department") proposes revisions to its current regulations in order modernize its registration function, to better conform to the federal securities registration regime, to cure industry confusion as to certain registration requirements and to better track exam requirement compliance of thousands of investment adviser representatives providing investment advice to New Yorkers. The Attorney General believes that these revisions will help protect the public from fraudulent exploitation in the offering and sale of securities and the provision of investment advice.

The revisions to 13 NYCRR 10 amend regulations to require certain notice filings for federal "covered securities" being sold in New York and allow for such filings along federally set timelines, and effectuate such filing through the North American Association of Securities Administrators' ("NASAA") electronic filing depository system ("EFD"). New York law has always required securities dealers, among others, to file information deemed pertinent by the Attorney General with the Investor Protection Bureau. The current version of the regulations were designed to adhere to past technology capabilities. Because of the passage of time and the evolution of national registration processes and technology, and due to some confusion within the industry, these Regulations require updating.

In the revised Part 10, the Attorney General classifies securities and dealers for the purpose of directing filing of forms to New York through EFD and to further harmonize New York and federal registration laws. Most critically, the policies and practices of the Department have not kept pace with all of the developments in state and federal securities regulation since the enactment of the National Securities Markets Improvement Act in 1996. In particular, the Department recognizes that clarity is required regarding classification of certain securities and investment professionals and the filings required thereof. Accordingly, through these revisions the Attorney General classifies Federal Covered Investment Company Securities, Federal Regulation D Covered Securities and Federal Tier 2 Securities and the dealers thereof. Under the revised regulations, the Department will require that such dealers file Form NF, Form D and the uniform notice filing for Tier 2 securities, respectively, with the Department of Law. The filings will provide New York direct notice of persons offering securities from its soil and to its residents and will complement federal registration law in line with its explicit carve outs for state notice filings.

The revisions to 13 NYCRR 11 will fully implement GBL § 359-eee by registering investment adviser representatives through the Central Registration Depository/Investment Adviser Registration Depository (collectively “CRD/IARD”). The authority to register such individuals has always been available under the law. When the CRD/IARD system was first implemented, technological and practical limitations made such registration untenable. Now that improvements have made electronic filing feasible, however, New York is the only state in the Union that does not register these important investment professionals. Such registration will close gaps in nationwide regulation efforts which in certain cases, fail to connect investment adviser representatives with their past record in the securities industry. The complete record of these individual’s records is necessary to protect the public and is maintained in every other state. By adopting these revisions, the Attorney General is notifying investment advisers that that natural persons representing investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers will, upon implementation of these regulations, be explicitly required to meet exam requirements and register with the State.

The final revisions to the part 11 proposal with respect to registration include (i) an implementation period allowing persons who permissibly operated under the rules in existence prior to this revision to continue to do so until December 2, 2021, so long as they submit an application for registration by August 31, 2021, (ii) a new exam special waiver category, and new Form NY-IASW, for persons currently serving as investment adviser representatives and having two (2) years of experience in that capacity prior to rule’s effective date, excluding those previously acting solely as solicitors or those with disciplinary history, and (iii) an extended period to comply with the examination requirement for those persons permissibly operating under the rules in existence prior to this revision, but who do not qualify for an exam waiver.

The revisions to 13 NYCRR 11 also delineate the Department’s authority to deny, suspend, condition, or revoke any registration statement or application of any investment adviser or investment adviser representative in the public interest for good cause. The Department has always held the implicit authority to deny investment adviser applications in the public interest. The new provision codifies this authority and details the specific categories of actions that the Department may take. It is anticipated that guidance will be promulgated to further detail this authority.

The revisions to 13 NYCRR 11 also include a new bookkeeping requirement for investment advisers. The revision requires that State-registered investment advisers take reasonable steps to verify the “accredited investor” and “qualified client” status of any client so designated, including making and maintaining documents used in the course of verification. Such revisions codify the requirement that investment advisers take due care in making such designations, which, if used to recommend investment in certain securities, can expose New Yorkers to increased investment risk.

The revisions to 13 NYCRR 11 seek to clarify the registration and exam requirements for certain currently-undefined subclassifications of investment advisers that are paid to match up investors with securities industry participants. The part 11 proposal defines and classifies these investment advisers as “Solicitors” and sets out explicit registration and exam requirements for them.

Finally, the revisions to 13 NYCRR 10 and 13 NYCRR 11 update numerous outdated terms, past fee requirements and correct other de minimis errata. The revisions also include updated information regarding forms and form instructions. All forms can be viewed at <https://ag.ny.gov/forms>.

These changes provide a number of immediate benefits to the State and its citizens, including: (i) giving the Department more ready access to information about securities issuers in the State; (ii) giving the public, for

the first time, detailed information about many investment adviser representatives in the State; (iii) modernizing the State’s registration processes;

(iv) increasing harmonization with federal registration laws; (v) reducing industry confusion; and (vi) giving effect to the spirit and an ultimate aim of Article 23-A’s registration laws by facilitating central and simultaneous registration of investment professionals.

This summary has been updated to include the non-substantive changes that were made to the proposal during the comment assessment period prior to the Notice of Adoption.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 11.1(a), (d), 11.2(a), (b), 11.4-11.7, 11.9, 11.11-11.13 and 11.17.

Text of rule and any required statements and analyses may be obtained from: Kenneth J. Haim, Office of the Attorney General, Investor Protection Bureau, 28 Liberty St, 21st Floor, New York, New York 10005, (212) 416-8206, email: kenneth.haim@ag.ny.gov

Revised Regulatory Impact Statement

1. Statutory Authority. General Business Law (“GBL”) § 359-eee of the General Business Law requires investment advisers to register with the Attorney General. GBL § 359-eee grants the Attorney General authority to promulgate rules and regulations governing the registration of investment advisers. See, e.g., GBL § 359-eee(2), (3), (4), (5), (6), (9), (10).

The law provides broad discretion to the Attorney General to gather information about investment advisers, including different classes and representatives thereof, doing business within or from New York State. Here, the Attorney General is exercising her authority under GBL § 359-eee(3), (6) to implement and codify the requirement that natural persons representing investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers, provide registration statements through the Central Registration Depository (“CRD”) and Investment Adviser Registration Depository (“IARD”) and that registration be conditioned on satisfaction of uniform exam requirements. The Attorney General is also exercising her authority to create a special waiver from examination requirements for persons with certain qualifications during the rule’s implementation period. The Attorney General is exercising her authority under GBL § 359-eee(6) to codify her ability to deny, revoke, suspend or condition registration statements and applications, in the public interest for good cause. In addition, the Attorney General is exercising her authority under GBL § 359-eee (9), to require investment advisers to make and maintain certain books and records.

2. Legislative Objectives. A primary objective of the statutory authority is to protect the public from fraudulent exploitation in the provision of investment advice and to ensure that those who sell investment services are competent and accountable. The objectives of the rule are to: (a) ensure that investors have access to information regarding investment adviser principals, supervisors and representatives thereof, and solicitors to reduce the possibility of fraud and to empower investors to make sound decisions when choosing an investment adviser; (b) ensure that investors are protected against unscrupulous investment advisers; (c) ensure investment adviser representatives, principals, supervisors and solicitors have complied with exam or waiver requirements; (d) update current rules; and (e) modify rules regarding maintenance of books and records.

3. Needs and Benefits. Clients and prospective clients of investment advisers need to have ready access to certain information about an investment adviser’s business to better enable them to make sound investment decisions and to reduce the risk that they will be victimized by fraud. Generally, minimum exam requirements are necessary to ensure that investment adviser representatives and solicitors are qualified to provide sound investment advice. The purpose of the rule is to further these objectives by increasing the amount of information about investment adviser representatives, principals, supervisors and solicitors readily available to the public and the Attorney General, by requiring compliance with exam requirements for a substantial number of investment adviser representatives, and by updating current rules to explicitly require that investment advisers make and maintain information regarding the “accredited investor” and “qualified client” status of their clients, if applicable.

Specifically, the rule:

a. Requires that natural persons representing investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers, register with the Department of Law through the CRD/IARD and clarifies and authorizes actions available to the Attorney General regarding such registrations;

b. Requires that natural persons qualifying as a principal of a state registered investment adviser, an investment adviser representative or supervisor thereof, an investment adviser representative of a federally

covered investment adviser, or a representative of a solicitor comply with exam requirements unless they qualify for a waiver; and

c. Requires that investment advisers make and maintain information regarding the “accredited investor” and “qualified client” status of their clients, if applicable.

4. Costs.

(a) Costs to regulated parties. Under the regulatory revisions, certain natural persons who satisfy the definition of investment adviser under GBL § 359-eee, including certain natural persons working for federally covered investment advisers will be required to register as investment adviser representatives and pay the annual registration fee of \$200. This fee amount is set forth in GBL § 359-eee(7) and is unaffected by the regulation revisions herein. In addition, filers will be required to pay usual and customary electronic filing fees associated with IARD and CRD. Based on a review of SEC data on investment adviser representatives registered in other states and having a connection to New York, there could be approximately 14,000 investment adviser representatives that would be required to register and pay annual fees under this rule. Such estimate could be materially reduced as certain of the investment adviser representatives may be employees of federally covered investment advisers without a place of business in New York and would be therefore excluded from the rule. Such estimate may also be higher to the extent those currently operating as investment adviser representatives or solicitors have been working from New York without registration in any other jurisdiction. During the period of comment assessment it has become apparent that the likely number of applicants will exceed 20,000 and may reach up to 55,000.

(b) Costs to the agency, the state and local governments. The Attorney General believes that it will incur incremental administrative costs related to processing additional forms and amendments with regard to the registration of investment adviser representatives. However, the Attorney General also believes that the simultaneous revisions to 13 NYCRR Part 10, which effectively eliminate many paper Form 99 filings, will offset overall costs. Depending on the size of the applicant pool for investment adviser representative registration, the Attorney General may require additional staff to review and approve applications faster. The rule includes a significant implementation period to account for any application processing or examination scheduling issues. The Attorney General foresees no additional costs to any other state or local government agencies.

(c) Information and methodology upon which the estimate is based. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General, in reliance upon data and information available to her maintained by the Department of Law’s Investor Protection Bureau.

5. Local government mandates. The regulatory revisions do not impose any programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork. The rule revisions require electronic filing of nationally standardized forms. Besides the forms explicitly designated in the regulation revisions, which is sought electronically, no additional reporting or paperwork requirements would be required as a result of the regulatory revisions.

7. Duplication. Federal law requires investment advisers doing business in New York with over \$25 million of assets under management to register with the SEC and allows for notice filing in New York of such firms. New York law requires New York investment advisers with less than \$25 million of assets under management to register with the Department of Law. None of the provisions of the rules conflict with federal law.

8. Alternatives. The Attorney General has considered alternatives to its regulatory revisions. In particular, the Attorney General has for the past many years required that representatives of state registered investment advisers comply with exam requirements and provide information. The Attorney General has determined that such exam requirements and provision of information should apply to investment adviser representatives to the extent permitted under federal law, that provision of information should be standardized and that the State should receive the statutory registration fee.

The Attorney General has concluded that the revisions are necessary because they are the most effective means available to regulate parties selling investment advice and advance the public’s knowledge about such personnel.

9. Federal Standards. The regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject.

10. Compliance Schedule. The regulatory revisions will go into effect on February 1, 2021, after the publication of a Notice of Adoption in the New York State Register. The rule includes an approximately year-long implementation period for full compliance so long as registration applications are filed by August 31, 2021 and the applicant has not been notified of certain deficiencies as specified in 13 NYCRR 11.4(i).

Revised Regulatory Flexibility Analysis

1. Effect of rule. None of the rule revisions will affect local government. The regulatory revisions will require that natural persons representing

investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers, register with Department of Law through the Central Registration Depository and Investment Adviser Registration Depository (collectively “CRD/IARD”), require that they pass certain examinations unless they qualify for a waiver, and will add to state registered investment advisers (“IA”s) recordkeeping requirements. Many state registered IAs are small businesses. There are approximately 1,300 state registered IAs with 850 of those having a principal office in New York State. Under the revisions IARs will now be required to register through the CRD/IARD system and pay a fee. Notably, the rule revisions provide an exception for sole proprietorships so that such IAs are not required to pay the fee for both IA and IAR registration. Any additional IARs associated with that IA will have to file through CRD/IARD and pay an annual \$200 fee as mandated by GBL § 359-eee(7). Although these changes will enforce the State’s entitlement to IAR registration fees, these rule changes should have minimal effect on small business IAs because such IAs already register in New York and are already required to file information about their IARs with the State pursuant to Form NY-IAQ. The IAR related revisions will also affect IARs representing federal covered investment advisers managing more than \$25,000,000 in assets. The recordkeeping changes will require that State registered IAs maintain increased documentation regarding certain of their clients’ profiles. The rule will also authorize the Attorney General to deny, suspend, condition and revoke registration statements and applications in the public interest for good cause. These rule revisions should have minimal impact on small businesses. There is no cure period included in the rules since all persons who are subject to the rule are required to file. The rule includes an approximately year-long implementation period for full compliance so long as registration applications are filed by August 31, 2021 and the applicant has not been notified of certain deficiencies as specified in 13 NYCRR 11.4(i).

2. Compliance requirements. The regulatory revisions do not require local governments to undertake any new reporting or recordkeeping procedures. The regulatory revisions will require that natural persons representing investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers register with Department of Law through CRD/IARD and will add to state registered IA recordkeeping requirements. Many state registered IAs are small businesses. There are approximately 1,300 state registered IAs with 850 of those having a principal office in New York State. Under the revisions IARs will now be required to register through the CRD/IARD system and pay a fee. Notably, the rule revisions provide an exception for sole proprietorships so that such IAs are not required to pay the fee for both IA and IAR registration. Any additional IARs associated with that IA will have to file through CRD/IARD and pay an annual \$200 fee as mandated by GBL § 359-eee(7). These rule changes should have minimal effect on these IAs because such IAs already register in New York and are already required to file information about their IARs with the State pursuant to Form NY-IAQ. The revisions will also affect IARs representing federally covered investment advisers managing more than \$25,000,000 in assets. The recordkeeping changes will require that IAs maintain increased documentation regarding certain of their clients’ profiles. The rule will also authorize the Attorney General to deny, suspend, condition and revoke registration statements and applications in the public interest for good cause. These rule revisions should have minimal impact on small businesses.

3. Professional services. Local governments will not need to employ any professional services to comply with the regulatory revisions. The regulatory revisions will require certain businesses to incur costs associated with the submission of filings to the Department of Law, including fees associated with the use of the IARD/CRD system.

4. Compliance costs. The Department of Law foresees no initial capital costs nor any additional annual costs to local governments as a result of compliance with the regulatory revisions. The regulatory revisions will require that natural persons representing investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers register with Department of Law through CRD/IARD and will add to state registered IA recordkeeping requirements. Many state registered IAs are small businesses. There are approximately 1,300 state registered IAs with 850 of those having a principal office in New York State. Under the revisions IARs will now be required to register through the CRD/IARD system and pay a fee. Notably, the rule revisions provide an exception for sole proprietorships so that such IAs are not required to pay the fee for both IA and IAR registration. Any additional IARs associated with that IA will have to file through CRD/IARD and pay an annual \$200 fee as mandated by GBL § 359-eee(7). These rule changes should have minimal effect on these IAs because such

IAs already register in New York and are already required to file information about their IARs with the State pursuant to Form NY-IAQ. The revisions will also affect IARs representing federally covered investment advisers managing more than \$25,000,000 in assets. The recordkeeping changes will require that IAs maintain increased documentation regarding certain of their clients' profiles. The rule will also authorize the Attorney General to deny, suspend, condition and revoke registration statements and applications in the public interest for good cause. These rule revisions should have minimal impact on small businesses.

5. Economic and technical feasibility. There is no local government compliance necessitated by the revisions. The regulatory revisions are technologically feasible for small businesses, as they involve only minimal technological requirements including the ability to access the internet and make electronic payments to the State through the CRD/IARD system. Compliance is also economically feasible; the regulatory revisions impose minimal costs to certain small businesses, such as a \$200 annual fee for investment adviser representatives working for investment advisers with client assets under management of \leq \$25,000,000. Notably, the rule revisions provide an exception for sole proprietorships so that such IAs are not required to pay the fee for the IA and IAR to eliminate any potential duplicate fees. Further, businesses with fewer than six (6) New York clients will not be required to register or pay fees.

6. Minimizing adverse impact. The regulatory revisions do not affect local governments, and therefore have no adverse economic impact on them. The regulatory revisions minimize the requirements on small businesses because the Department of Law proposes to accept nationally accepted filings that may have already been completed by such business in compliance with other state laws. In addition, businesses with fewer than six (6) New York clients will not be affected by this rule at all. Any minimal adverse economic impact will be the result of the already existing fee structure. The Department of Law has considered various approaches in fashioning the regulatory revisions, including those set forth in State Administrative Procedure Act Section 202-b(1). In particular, the rule minimizes adverse impact by reducing business' need to understand and fill out new forms mandated solely by the State because under the revisions, businesses may submit nationally standardized forms through CRD/IARD. Further, the law already excludes certain small businesses from its purview, including IAs with less than six (6) New York clients. The Department of Law has concluded that the regulatory revisions are the most effective means of achieving the statutory objective of GBL § 359-eee.

7. Small business and local government participation. To ensure that small businesses and local governments have an opportunity to participate in the rule making process as required by the State Administrative Procedures Act Section 202-b(6), a copy of the regulatory revisions will be sent to members of the Bar who represent investment advisers dealers and relevant associations. Copies of the regulations will also be posted on the Office of the Attorney General's website.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas. The regulatory revisions apply uniformly throughout the state, including all rural areas. Only a small portion, if any, of State registered investment advisers ("IA"s) affected by the revisions are located in rural areas. Investment adviser representatives ("IAR"s) associated with mid-size and large federally covered investment advisers with an office located in the State will also be affected.

2. Reporting, recordkeeping, and other compliance requirements; and professional services. These revisions will apply to IAs and IARs throughout the State, including all rural areas. Only a small portion, if any, of IAs affected by the revisions are located in rural areas. Investment adviser representatives associated with mid-size and large federally covered investment advisers with an office located in the State will also be affected.

3. Costs. The Department of Law foresees no initial capital costs nor any additional annual costs to rural public entities as a result of compliance with the revisions. While the \$200 annual fee will affect all investment adviser representatives, principals, supervisors and solicitors as defined in the rules, only a small portion, if any, of IAs affected by the revisions are located in rural areas. IARs associated with mid-size and large federally covered investment advisers with an office located in the State will also be affected. Notably, the rule revisions provide an exception for sole proprietorships so that such IAs are not required to pay the fee for both IA and IAR registration. Further, businesses with fewer than six (6) New York clients will not be required to register or pay fees. These rule changes should have minimal effect on these IAs because such IAs already register in New York and were already required to file information about their IARs with the State pursuant to Form NY-IAQ. The revisions will also affect IARs representing federally covered investment advisers managing more than \$25,000,000 in assets.

4. Minimizing adverse impact. The regulatory revisions do not affect

local governments, and therefore have no adverse economic impact on them. The regulatory revisions minimize the requirements on small businesses because the Department of Law proposes to accept nationally accepted filings that may have already been completed by such business in compliance with other state laws. In addition, businesses with fewer than six New York (6) clients will not be affected by this rule at all. Any minimal adverse economic impact will be the result of the already existing fee structure. The Department of Law has considered various approaches to fashioning the regulatory revisions, including those set forth in State Administrative Procedure Act Section 202-bb(2). In particular, the rule minimizes adverse impact by reducing business' need to understand and fill out new forms mandated solely by the State because under the revisions, businesses may submit nationally standardized forms through CRD/IARD. Further, the law already excludes certain small businesses from its purview, including IAs with less than six (6) New York clients. The Department of Law has concluded that the regulatory revisions are the most effective means of achieving the statutory objective of GBL § 359-eee.

5. Rural area participation. To ensure that persons and entities in rural areas have an opportunity to participate in the rule making process as required in State Administrative Procedure Act Section 202-bb(7), a copy of the regulatory revisions will be sent to members of the Bar who represent investment advisers and relevant associations. Copies of the regulatory revisions will also be posted on the Office of the Attorney General's website.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The below represents the substance of comments sent to the Department of Law (The "Department") in response to its proposal to amend 13 NYCRR 11 as summarized in the April 15, 2020 edition of the New York State Register (the "Part 11 Proposal"). The final rule adopting the Part 11 Proposal is referred to herein as the "Adopted Rule."

Below each comment the Department has responded.

1. Comment: A few commenters requested that the Department clarify that the registration requirements for investment advisers under Section 11.4 of the Part 11 Proposal do not apply to Federally Covered Investment Adviser ("FCIAs") or to those who otherwise are excluded or exempted under Section 11.13. The commenters also request clarification that an Investment Adviser Representative ("IAR") must register under Section 11.4 only where (1) the IAR represents an Investment Adviser who is required to register with the State of New York, and (2) the IAR represents a Federally Covered Investment Adviser ("FCIA") and has a place of business in the State of New York. The commenters noted that the Part 11 Proposal, as written, could be construed to apply in scenarios that would be preempted under Section 203A of the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-3a) and 17 CFR § 275.203A-3 ("Rule 203A-3") thereunder.

Response: The Department has clarified the Adopted Rule to address any risk of federal preemption in the application of New York's registration requirements. First, Section 11.13(a) is amended to clearly delineate that FCIAs are excluded from the definition of "investment adviser" consistent with the definition set forth in NY GBL § 359-eee and therefore are not subject to registration in New York. Section 11.13(b) will continue to provide separately for those who may be included in the definition of "investment adviser," but who are exempt from registration. Second, in Section 11.12, the proposed definition of "investment adviser representative" is modified to align explicitly with the requirements of Rule 203A-3 when applied to IARs for FCIAs.

2. Comment: A few commenters assert that the proposed definition of "investment adviser representative" in Section 11.12 of the Part 11 Proposal is overly broad because it includes "any natural person supervising an investment adviser representative," which unintentionally could subject every individual in a supervisory chain to registration in New York. Two commenters proposed a narrower definition to include only direct supervisors of those individuals who engage in the specific services that would constitute IAR services, rather than any supervisor. Similarly, another commenter urges that the Department amend Sections 11.4 and 11.6 of the Part 11 Proposal to prevent New York's registration requirements from being misapplied to "supervisors" and "principals" at FCIAs who are not themselves IARs due to potential preemption under federal law.

Response: The Department has clarified the Adopted Rule to address any risk of federal preemption in the application of New York's registration requirements. The definition of "investment adviser representative" has been modified to strike the language "[a]ny natural person supervising any investment adviser representative is deemed to be an investment adviser representative and is subject to the same examination and registra-

tion requirements....” To narrow registration to direct supervisors of IARs, the Department has amended Section 11.12 to define specifically the term “supervisor” as a “natural person who directly supervises one or more natural persons associated with an investment adviser in their capacity as investment adviser representatives.” The term also incorporates the updated definition of “investment adviser” that is consistent with GBL § 359-eee to avoid preemption by federal law.

3. Comment: One commenter urged the Department to modify the proposed definition of “solicitor” under Section 11.12(j) from a person who introduces prospective investors to investment advisers “as part of their regular business” to one who does so “on a regular basis.” The commenter believes the former phrase may cause confusion with respect to persons excluded from the definition of investment adviser due to their activity being “solely incidental” to their regular profession.

Response: The Department does not believe clarification is necessary as the definition of Solicitor in 13 NYCRR 11.12(j) of the Part 11 Proposal excludes those who fall under an enumerated exception under GBL § 359-eee(1)(a). GBL § 359-eee(1)(a)(2) and (3) carve out lawyers, accountants, engineers and teachers whose performance of investment advisory services are solely incidental to their practice and brokers or dealers whose conduct is similarly incidental and who receive no special compensation for such conduct. To the extent a person does not fall into any excluded category and otherwise meets the definition of solicitor, such person is required to register with New York.

The commenter’s proposed modification also would increase uncertainty as to what constitutes “a regular basis” triggering a duty to register. This includes likely questions over the frequency of solicitation activities, the number of investment advisers for whom a solicitor seeks investors, and a solicitors’ ongoing efforts to have investment advisers engage them to locate prospective clients.

In addition, the definition of “solicitor” in the Part 11 Proposal is consistent with the federal definition set forth in 17 CFR § 275.206(4)-3 (“Rule 206(4)-3”). Specifically, Rule 206(4)-3 defines a solicitor as “any person who, directly or indirectly, solicits any client for, or refers any client to, an investment adviser” and does not condition the definition by the regularity of the solicitor’s business.

4. Comment: Two commenters requested that the Department modify the Part 11 Proposal to exclude from state registration requirements those solicitors whose sole activity for FCIA’s is making referrals and who are not IARs. One commenter asserts that state registration requirements only would apply to third-party solicitors, and not to any solicitor who is a supervised person of an FCIA. The commenter further asserts that state registration of third-party solicitors is unnecessary because the current federal framework sufficiently protects investors.

Response: The Department declines to incorporate the commenters’ requested modifications. As a general matter, a solicitor who is a supervised person for an FCIA and operates from a place of business within the state also is an IAR and subject to registration, so there is no additional solicitor requirement for that person. As to third-party solicitors engaged by either an FCIA or an investment adviser, or both, the Department believes it serves the public interest to require registration, disclosure and minimum examination requirements.

Further, FCIA oversight of third-party solicitors has not proven consistently adequate. The SEC’s Office of Compliance Inspections and Examinations recently published a risk alert in which it identified common deficiencies cited by the SEC staff regarding the use of third-party solicitors. These include inadequate provision of disclosure documents, failure to obtain required client acknowledgments, incomplete solicitation agreements, and insufficient bases for FCIA’s to believe that solicitors had complied with the solicitation agreements. The Department therefore believes additional transparency and minimum competency requirements are appropriate.

5. Comment: A few commenters have urged the Department to expand the examination waivers to grandfather all individuals who were providing investment advisory services in New York on or before the effective date of the Part 11 Proposal. The commenters believe the waiver should apply to IARs both for New York-registered investment advisers and for FCIA’s where the IAR’s operate in the state. The commenters also propose applying the waiver with no minimum look-back period for prior experience or past registration.

Response: The Department agrees that some expansion of the examination waiver is appropriate and has modified the Adopted Rule accordingly. In Section 11.7(a), the waiver for persons registered in jurisdictions outside of New York has been modified to cover individuals registered in any jurisdiction, including New York. The waiver still requires those persons to have been continuously registered in those jurisdictions for at least two years prior to the date of their registration filings in New York and with no lapse in registration exceeding two years. In addition, they must not be now, or in the preceding 10 years have been, subject to any regulatory or civil action, proceeding or arbitration requiring disclosure on Form U4.

Section 11.7(b) separately provides a special waiver that exempts individuals who (i) acted as investment adviser representatives in the regular course of business, (ii) from a place of business in New York, and (iii) for a period of at least two years prior to the effective date of the Part 11 Proposal. Those seeking the waiver must not currently be, or in the last ten years been subject to, any regulatory or civil action, proceeding, arbitration, investigation or disciplinary event that would require disclosure on Form U4 or be the subject of a current investment-related investigation of which they are aware. The special waiver is not available to individuals (i) who submit applications for registration after August 31, 2021, (ii) whose investment advisory activities prior to December 2, 2020 – the date of publication in the State register – were limited to acting as a solicitor, or (iii) who ceased providing investment advisory services for two or more continuous years in the four-year period immediately preceding their registration application. All waivers are granted at the Department’s discretion.

Solicitors are excluded from special waiver eligibility because the limited scope of solicitor activities is an insufficient indicator of the experience necessary to merit waiving examination requirements during the implementation period. The deadline for requesting a special waiver is August 31, 2021, which allows nine months’ notice from the date of publication of adoption of the proposal, to ensure timely receipt of registration applications and special waiver requests so that they do not arrive at the very end of the implementation period. All special waiver requests must be made on new Form NY-IASW.

Examination waivers granted before February 21, 2021 to IARs of State Registered Investment Advisers will continue to be honored, barring new information warranting a reevaluation or redetermination under 11.18.

6. Comment: A few commenters suggested that the Department expand the Part 11 Proposal’s waivers for persons required to take and successfully pass the required examinations. One commenter believes the examination waiver for IARs registered in other jurisdictions should not have a two-year lookback requirement. Another commenter suggested the examination waiver should apply to anyone who at any time previously passed the Series 65 or a combination of the Series 7 and 66, and should not be limited to those who passed the examinations within two years prior to their respective applications for registration. Other commenters suggested that the waiver should apply to any person who currently provides investment advisory services in New York and who holds Series 7 and Series 63 certifications, or who previously held a Series 65 or 66 certification that lapsed due to non-registration or non-payment of fees.

Response: The Department maintains that applicants registered in other jurisdictions must show continuous registration for two years prior to submitting their applications in New York and requesting a waiver. However, the waiver provision is slightly modified to apply to those registered as an investment adviser representative in any U.S. jurisdiction in order to allow that same waiver to apply to New York registered investment adviser representatives in the future. The Department also maintains the two-year continuous registration requirement for waiver applicants. This requirement serves as an indicator that individuals obtaining the waiver are sufficiently experienced in the area of investment advisory services. This timeframe also is consistent with FINRA’s expiration period and retesting requirement for individuals who pass the Series 7 and other licensing examinations, but who have gone two continuous years without employment with a FINRA-member. The Department declines to otherwise extend the waiver provisions related to prior investment adviser representative registration.

Separately, the Part 11 Proposal preserves the examination waiver for individuals who hold certain professional designations in good standing. The Department declines to expand the waiver to include other examinations or certifications.

7. Comment: One commenter requests clarification of the requirement under Section 11.7 of the Part 11 Proposal that individuals seeking a waiver from registration not have faced any regulatory action or arbitrations refers to Form U4 disclosable disciplinary incidents.

Response: Applicants seeking an examination waiver under Section 11.7 must not be subject, at the time of application or in the preceding 10 years, to regulatory or civil actions, proceedings or arbitrations that would require disclosure on Form U4.

8. Comment: A few commenters have requested that the Department extend the compliance period for satisfying the new requirements under the Part 11 Proposal, particularly with respect to the examination requirements, from 60 days to one year. The commenters have cited difficulties caused by the 2020 COVID-19 pandemic and its impact on the State of New York as the hardest obstacle to overcome in terms of complying with the new requirements.

Response: The Department agrees that extensions to the compliance periods for the new requirements under the Part 11 Proposal are appropriate and has created an approximately yearlong implementation period (11.4(i)) and extended compliance period (11.6(b)), as well as a special

exam waiver (11.7(b)) to effect those extensions in the Adopted Rule. The implementation period begins on the date of publication in the state register and ends on December 2, 2021. Individuals who provided investment advisory services prior to the effective date may continue their investment advisory activity so long as their applications are not denied and they have not failed to correct any deficiency. The extended compliance period also gives those individuals until December 2, 2021 to pass the required examinations. Those persons who are eligible and who seek the protection of these extensions must submit their registration applications by August 31, 2021.

Thus, the Department expects that all industry participants subject to the new registration and exam requirements will be able to continue their current business activity for approximately one year before an approved registration is required. The Department encourages investment adviser representatives to submit their Form U4 filings and schedule any required exams as soon as possible on or after the effective date to ensure sufficient time for review and processing.

9. Comment: A few commenters have requested that the Department lower the registration fees set forth in the Part 11 Proposal. The commenters are concerned that New York's \$200 initial and annual registration fee for both investment advisers and IARs is excessive compared to other states and could create a barrier to entry.

Response: The Department has maintained the \$200 initial and annual registration fee for both investment advisers and IARs as it is derived from GBL § 359-eee(7). The Department believes that the \$200 registration fee will not cause any barrier to entry across the investment adviser industry, which receives fees based on trillions of dollars in assets under management each year. Notably, the Adopted Rule contains registration fee relief for sole proprietorships under 11.4(h).

10. Comment: Two commenters have requested the Department more explicitly clarify under Section 11.18 in the Part 11 Proposal the circumstances under which the Attorney General would deny, suspend, revoke or condition the registration of an investment adviser, IAR, principal or solicitor.

Response: The Department is promulgating guidance that will be available on its website following publication of this assessment.

11. Comment: One commenter requested that the Department update the name the "Investment Council Association of America" to its current name, the "Investment Adviser Association," as the association awarding the Chartered Investment Counselor designation in Section 11.7 of the Part 11 Proposal.

Response: The Department has modified the language in Section 11.7 in the Adopted Rule accordingly.

NOTICE OF ADOPTION

Brokers, Dealers and Salespersons Defined Under General Business Law Section 359-e

I.D. No. LAW-15-20-00018-A

Filing No. 749

Filing Date: 2020-11-17

Effective Date: 2020-12-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 10 of Title 13 NYCRR.

Statutory authority: General Business Law, sections (3)(a), (b), (4), (10), (13), (14)(c) and (e)

Subject: Brokers, dealers and salespersons defined under General Business Law section 359-e.

Purpose: Harmonize regulations with Federal law and national standards and facilitate anti-fraud activities and modernize registration.

Substance of final rule: The public is imperiled when investment professionals are allowed to peddle investment schemes in the shadows and the Attorney General seeks to illuminate such persons and transactions. At the same time, the Attorney General understands that business interests may be impeded when state registration procedures become confusing and antiquated. These rule revisions represent a balancing of these interests in light of the well-established federal securities registration regime.

The Investor Protection Bureau of the Department of Law ("Department") proposes revisions to its current regulations in order modernize its registration function, to better conform to the federal securities registration regime, to cure industry confusion as to certain registration requirements and to better track exam requirement compliance of thousands of investment adviser representatives providing investment advice to New Yorkers. The Attorney General believes that these revisions will help protect the public from fraudulent exploitation in the offering and sale of securities and the provision of investment advice.

The revisions to 13 NYCRR 10 amend regulations to require certain notice filings for federal "covered securities" being sold in New York and allow for such filings along federally set timelines, and effectuate such filing through the North American Association of Securities Administrators' ("NASAA") electronic filing depository system ("EFD"). New York law has always required securities dealers, among others, to file information deemed pertinent by the Attorney General with the Investor Protection Bureau. The current version of the regulations were designed to adhere to past technology capabilities. Because of the passage of time and the evolution of national registration processes and technology, and due to some confusion within the industry, these Regulations require updating.

In the revised Part 10, the Attorney General classifies securities and dealers for the purpose of directing filing of forms to New York through EFD and to further harmonize New York and federal registration laws. Most critically, the policies and practices of the Department have not kept pace with all of the developments in state and federal securities regulation since the enactment of the National Securities Markets Improvement Act in 1996. In particular, the Department recognizes that clarity is required regarding classification of certain securities and investment professionals and the filings required thereof. Accordingly, through these revisions the Attorney General classifies Federal Covered Investment Company Securities, Federal Regulation D Covered Securities and Federal Tier 2 Securities and the dealers thereof. Under the revised regulations, the Department will require that such dealers file Form NF, Form D and the uniform notice filing for Tier 2 securities, respectively, with the Department of Law. The filings will provide New York direct notice of persons offering securities from its soil and to its residents and will complement federal registration law in line with its explicit carve outs for state notice filings.

The revisions to 13 NYCRR 11 will fully implement GBL § 359-eee by registering investment adviser representatives through the Central Registration Depository/Investment Adviser Registration Depository (collectively "CRD/IARD"). The authority to register such individuals has always been available under the law. When the CRD/IARD system was first implemented, technological and practical limitations made such registration untenable. Now that improvements have made electronic filing feasible, however, New York is the only state in the Union that does not register these important investment professionals. Such registration will close gaps in nationwide regulation efforts which in certain cases, fail to connect investment adviser representatives with their past record in the securities industry. The complete record of these individual's records is necessary to protect the public and is maintained in every other state. By adopting these revisions, the Attorney General is notifying investment advisers that that natural persons representing investment advisers including principals, supervisors and representatives thereof, solicitors and representatives thereof and certain investment adviser representatives of federally covered investment advisers will, upon implementation of these regulations, be explicitly required to meet exam requirements and register with the State.

The final revisions to the part 11 proposal with respect to registration include (i) an implementation period allowing persons who permissibly operated under the rules in existence prior to this revision to continue to do so until December 2, 2021, so long as they submit an application for registration by August 31, 2021, (ii) a new exam special waiver category, and new Form NY-IASW, for persons currently serving as investment adviser representatives and having two (2) years of experience in that capacity prior to rule's effective date, excluding those previously acting solely as solicitors or those with disciplinary history, and (iii) an extended period to comply with the examination requirement for those persons permissibly operating under the rules in existence prior to this revision, but who do not qualify for an exam waiver.

The revisions to 13 NYCRR 11 also delineate the Department's authority to deny, suspend, condition, or revoke any registration statement or application of any investment adviser or investment adviser representative in the public interest for good cause. The Department has always held the implicit authority to deny investment adviser applications in the public interest. The new provision codifies this authority and details the specific categories of actions that the Department may take. It is anticipated that guidance will be promulgated to further detail this authority.

The revisions to 13 NYCRR 11 also include a new bookkeeping requirement for investment advisers. The revision requires that State-registered investment advisers take reasonable steps to verify the "accredited investor" and "qualified client" status of any client so designated, including making and maintaining documents used in the course of verification. Such revisions codify the requirement that investment advisers take due care in making such designations, which, if used to recommend investment in certain securities, can expose New Yorkers to increased investment risk.

The revisions to 13 NYCRR 11 seek to clarify the registration and exam requirements for certain currently-undefined subclassifications of investment advisers that are paid to match up investors with securities industry

participants. The part 11 proposal defines and classifies these investment advisers as “Solicitors” and sets out explicit registration and exam requirements for them.

Finally, the revisions to 13 NYCRR 10 and 13 NYCRR 11 update numerous outdated terms, past fee requirements and correct other de minimis errata. The revisions also include updated information regarding forms and form instructions. All forms can be viewed at <https://ag.ny.gov/forms>.

These changes provide a number of immediate benefits to the State and its citizens, including: (i) giving the Department more ready access to information about securities issuers in the State; (ii) giving the public, for the first time, detailed information about many investment adviser representatives in the State; (iii) modernizing the State’s registration processes;

(iv) increasing harmonization with federal registration laws; (v) reducing industry confusion; and (vi) giving effect to the spirit and an ultimate aim of Article 23-A’s registration laws by facilitating central and simultaneous registration of investment professionals.

This summary has been updated to include the non-substantive changes that were made to the proposal during the comment assessment period prior to the Notice of Adoption.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 10.1(a), (b), (d), 10.2(a), (e), 10.3(d), (e), 10.5, 10.8(a), (c), 10.10(a) and 10.11.

Text of rule and any required statements and analyses may be obtained from: Kenneth J. Haim, Office of the Attorney General, Investor Protection Bureau, 28 Liberty St., 21st Floor, New York, NY 10005, (212) 416-8206, email: kenneth.haim@ag.ny.gov

Revised Regulatory Impact Statement

1. Statutory Authority. General Business Law (“GBL”) § 359-e requires brokers, dealers and salespersons to register and provide certain other types of notice filings to the State. Section 359-e grants the Attorney General authority to promulgate rules and regulations governing the registration and notice filings of brokers, dealers and salespersons. See, e.g., GBL § 359-e (3)(a), 3(b), (4), (10), (13), (14)(c), (14)(e).

2. Legislative Objectives. A primary objective of the statutory authority is to protect the public from fraudulent exploitation in the offer and sales of securities and commodities and to provide the Attorney General with notice of such activity before such exploitation. The objectives of the rule are to: (a) ensure that the Attorney General is provided with information about dealers of unregistered securities available to the extent not in conflict with federal law in order to facilitate the Attorney General’s anti-fraud activities (b) clarify current law and rules, and (c) update current rules that have become outdated.

3. Needs and Benefits. Persons in the securities business in or from New York are mandated by law to pass certain examinations and to provide information regarding their business, via certain statements, to the Attorney General. The Attorney General uses this information to protect the public from fraudulent exploitation. GBL § 359-e contemplates that such information will be provided according to national filing standards. If any such statements are false, the filers of such false statements become subject to liability under New York law. Since the passage of the National Securities Markets Improvement Act in 1996, there may have been industry confusion over the requirements of New York law with regard to the offer and sale of federal covered securities. This confusion was created because federal law generally prohibits states from imposing conditions on certain securities and securities transactions, known as covered securities except for filing requirements that are substantially similar to those of the U.S. Securities and Exchange Commission in conjunction with offering of such securities or transactions, annual or periodic reports of the value of securities sold or offered to be sold to persons located in the State, solely for notice purposes and the assessment of any fee, together with a consent to service of process and any required fee. The Attorney General, by these revisions, wishes to clarify requirements under New York law.

Specifically, the rule does the following:

(a) Requires Federal Regulation D Covered Securities Dealers to file Form D, Federal Tier 2 Dealers to file the Uniform Notice Filing of Regulation A – Tier 2 Offering Form and Federal Covered Investment Company Dealers to file the New York Form NF, and certain supplemental filings to each form respectively. This requirement fills any perceived gap in the law between filings not prohibited by federal regulations and filings explicitly required under New York regulations. The rules classify several categories of dealers of covered securities and require that such dealers make limited filings of documents already filed with SEC or other uniform notice filings, explicitly bringing New York rules in closer alignment to federal law. The rule will generally require that such filings are made through a nationally accepted electronic system. This proposal makes clear that certain filings and fees are required in New York for certain dealers of covered securities.

(b) Updates references to the National Association of Securities Dealers, Inc., to read “Financial Industry Regulatory Authority” or “FINRA”) and updates required State fees in line with GBL § 359-e(5) and corrects other outdated provisions. The rule will eliminate confusion that may be caused by such outdated provisions.

4. Costs. (a) Costs to regulated parties. Under the regulatory revisions, certain securities issuers qualifying as dealers, that may have misinterpreted the existing regulations as inapplicable, will now be explicitly compelled to file with the State and pay filing fees. Such fees will be due in amounts of either \$300 or \$1,200 every four years, depending on that activity of the filer and the size of the offering as detailed in GBL § 359-e(5). Supplemental filings may also be required at a cost of \$30 per amendment. These fees are set forth in GBL § 359-e(5) and are unchanged by the rule revisions herein. In addition, filers will usually be required to pay usual and customary electronic filing fees required by the North American Securities Administrators Association’s Electronic Filing Depository. Based on a review of data related to form D filings stating that securities would be offered in New York state, there could be approximately 5,500 issuers that would notice file and pay fees under this rule. Such estimate could be materially reduced as certain of these filers may not satisfy the definition of dealer under GBL § 359-e(1)(a) and thus may not be required to file under the rules.

(b) Costs to the agency, the state and local governments. The Department of Law believes that it will incur incremental administrative costs related to processing additional forms and amendments thereto. However, the Attorney General also believes that the elimination of certain older forms, and eventual electronic filing of Form D and Form NF, will offset overall costs to the Department. The Department of Law also foresees a reduction of State Notice, Further State Notice and U-2 Uniform Consent to Service forms filings to the Department of State for filers that will qualify as Federal Regulation D Covered Securities Dealers, Federal Tier 2 Securities Dealers, and Federal Investment Company Securities Dealers as classified under the regulation revisions. The Department of Law foresees no additional costs to any other state or local government agencies.

(c) Information and methodology upon which the estimate is based. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General, in reliance upon data and information available to her maintained by the Department of Law’s Investor Protection Bureau.

5. Local Government Mandates. The regulatory revisions do not impose any programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork. The revisions mandate filing of existing federal and nationally standard forms. Besides the forms explicitly designated in the regulation revisions, which are generally already created as notice filings for the SEC or other states and which are sought electronically by the Attorney General, no additional reporting or paperwork requirements would be required as a result of the regulatory revisions.

7. Duplication. The regulatory revisions will now explicitly require that, among other things, copies of certain filings to the federal government shall be filed directly with the Attorney General. Federal law does not prohibit such filings be made with the State and in almost all other states such filings are required. The notice filing requirements provide the Attorney General with direct notice of dealers offering and selling securities to and from the State, mandate that issuers make representations about their business directly to the State and provide investigatory opportunities, all of which help protect the public from fraudulent exploitation.

8. Alternatives. The Attorney General has considered alternatives to its regulatory revisions. In particular, the Attorney General has for the past many years required that filers, many of whom will now qualify as Federal Regulation D Covered Securities Dealers, Federal Tier 2 Securities Dealers, and Federal Investment Company Securities Dealers, file forms as directed by Department of Law instruction sheets posted to the Attorney General’s website. The Attorney General has also considered requiring no filings from such dealers. The Attorney General has concluded that persons qualifying as dealers under GBL § 359-e must be required to file information with and make representations directly to the Department of Law and that they may do so through notice filings. The Attorney General has concluded that the revisions are necessary and are the most effective means available to regulate parties offering and selling securities and advance the public’s knowledge about personnel offering and selling such securities while simultaneously reducing the unintended consequences that stem from any misinterpretation of existing laws and regulations. The Attorney General has also explored implementing these regulations by order as authorized under GBL § 359-e. Rather than proceed by order, the Attorney General has chosen to seek public comment related to these revisions.

9. Federal Standards. The regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject.

10. Compliance Schedule. The regulatory revisions will go into effect

upon legal adoption, including publication of a Notice of Adoption in the New York State Register.

Revised Regulatory Flexibility Analysis

1. Effect of rule. The regulatory revisions will facilitate formal participation in the North American Association of Securities Administrators' ("NASAA") electronic filing depository ("EFD"), and require certain notice filings, with regard to unregistered securities being sold in New York. Businesses offering unregistered securities that constitute dealers under General Business Law ("GBL") § 359-e and that satisfy the definition of certain covered securities under federal law, will be required to file that federal filing, or other standardized notice filing, directly with the Department of Law and pay a fee every four years. Such fees, as designated in GBL § 359-e(5) are \$1,200.00 for broker-dealers, \$300.00 for offerings of \$500,000.00 or less and \$1,200.00 for offerings of more than \$500,000.00. However, such businesses will be able to apply for an exemption from registration under provisions of GBL § 359-f, including GBL § 359-f(2)(d) for securities sold in limited offerings. Should such business apply for and be granted an exemption from registration under GBL § 359-f(2)(d), it would be required to pay a one-time \$300.00 fee. GBL § 359-e already requires that these same businesses file with the Department of Law and pay the same fees. The rule revisions clarify potential misinterpretation of State law requirements. This rule has no adverse effect on any local government. There is no cure period included in the rules since all persons who are subject to the rule are required to file unless they fall into certain exemptions under GBL § 359-f.

2. Compliance requirements. As mentioned above, the regulatory revisions will facilitate formal participation in the EFD and require certain notice filings for unregistered securities being sold in New York. Businesses offering unregistered securities that constitute dealers under GBL § 359-e and that satisfy the definition of certain covered securities under federal law, will be required to file that federal filing, or other standardized notice filing, directly with the Department of Law and pay a fee every four years. Such fees, as designated in GBL § 359-e(5) are \$1,200.00 for broker-dealers, \$300.00 for offerings of \$500,000.00 or less and \$1,200.00 for offerings of more than \$500,000.00. However, such businesses will be able to apply for an exemption from registration under provisions of GBL § 359-f, including GBL § 359-f(2)(d) for securities sold in limited offerings. Should such business apply for and be granted an exemption from registration under GBL § 359-f(2)(d), it would be required to pay a \$300.00 fee. GBL § 359-e already requires that these same businesses file with the Department of Law and pay the same fees. The rule revisions clarify potential misinterpretation of State law requirements. This rule has no adverse effect on any local government.

3. Professional services. Local governments will not need to employ any professional services to comply with the regulatory revisions. The regulatory revisions may require certain businesses to incur the professional costs associated with the submission of filings to the Department of Law, including fees associated with the use of the EFD system.

4. Compliance costs. The Department of Law foresees no initial capital costs nor any additional annual costs to local governments as a result of compliance with the regulatory revisions. The regulatory revisions will facilitate formal participation in the EFD system and require certain notice filings for unregistered securities being sold in New York. Businesses offering unregistered securities that constitute dealers under GBL § 359-e and that satisfy the definition of certain covered securities under federal law, will be required to file that federal filing, or other standardized notice filing, directly with the Department of Law and pay a fee every four years. Such fees, as designated in GBL § 359-e(5) are \$1,200.00 for broker-dealers, \$300.00 for offerings of \$500,000.00 or less and \$1,200.00 for offerings of more than \$500,000.00. However, such businesses will be able to apply for an exemption from registration under provisions of GBL § 359-f, including GBL § 359-f(2)(d) for securities sold in limited offerings. Should such business apply for and be granted an exemption from registration under GBL § 359-f(2)(d), it would be required to pay a one-time \$300.00 fee. GBL § 359-e already requires that these same businesses file with the Department of Law and pay the same fees. The rule revisions clarify potential misinterpretation of State law requirements.

5. Economic and technological feasibility. There is no local government compliance necessitated by the revisions. The regulatory revisions are technologically feasible for small businesses, as the regulatory revisions involve minimal technological requirements including the ability to access the internet and make electronic payments to the state through the EFD system. Compliance is also economically feasible; the regulatory revisions impose minimal costs to certain small businesses, and the opportunity for certain exemptions.

6. Minimizing adverse impact. The regulatory revisions do not affect local governments, and therefore have no adverse economic impact on them. The regulatory revisions minimize the requirements on certain businesses because the Department of Law proposes to accept notice filings on forms already completed by such business in compliance with federal or

state law. Any minimal adverse economic impact will be the result of the already existing fee structure. The Department of Law has considered various approaches fashioning the regulatory revisions, including those set forth in State Administrative Procedure Act Section 202-b(1). In particular, the rule minimizes adverse impact by reducing business' need to understand and fill out new forms mandated solely by the State because under the revisions certain businesses will submit federal and nationally standardized forms. Further, the law already contains exemptions, for which certain businesses may be eligible. The Department of Law has concluded that the regulatory revisions are the most effective means of achieving the statutory objective of GBL § 359-e and reducing any confusion that stems from a misinterpretation of the existing regulations.

7. Small business and local government participation. To ensure that small businesses and local governments have an opportunity to participate in the rule making process as required by the State Administrative Procedures Act Section 202-b(6), a copy of the regulatory revisions will be sent to members of the Bar who represent securities dealers and relevant association(s). Copies of the regulatory revisions regulations will also be posted on the Office of the Attorney General's website.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas. The regulatory revisions apply uniformly throughout the state, including all rural areas. Only a small portion of brokers or dealers, if any, affected by the rule revisions are located in rural areas.

2. Reporting, recordkeeping, and other compliance requirements; and professional services. The revisions will apply to dealers offering certain securities throughout the state, including all rural areas.

3. Costs. The Department of Law foresees no initial capital costs nor any additional annual costs to rural public entities as a result of compliance with the revisions. While the \$300/\$1200 quadrennial fee and \$30 supplemental filing fees will affect dealers of certain securities meeting the definitions in the revisions, only a small portion of dealers, if any, affected by the rule revisions are located in rural areas. Further such dealers may apply for exemptions under GBL § 359-f including a small issuer exemption, to the extent they are eligible, which could substantially reduce costs.

4. Minimizing adverse impact. The regulatory revisions minimize the requirements on certain businesses because the Department of Law proposes to accept notice filings on forms already completed by such business in compliance with federal or state law. Any minimal adverse economic impact will be the result of the already existing fee structure. The Department of Law has considered various approaches fashioning the regulatory revisions, including those set forth in State Administrative Procedure Act Section 202-bb(2). In particular, the rule minimizes adverse impact by reducing business' need to understand and fill out new forms mandated solely by the State because under the revisions certain businesses will submit federal and nationally standardized forms. Further, the law already contains exemptions, for which certain businesses may be eligible. The Department of Law has concluded that the regulatory revisions are the most effective means of achieving the statutory objective of GBL § 359-e, and reducing any confusion that stems from a misinterpretation of the existing regulations.

5. Rural area participation. To ensure that persons and entities in rural areas have an opportunity to participate in the rule making process as required in State Administrative Procedure Act Section 202-bb(7), a copy of the regulatory revisions will be sent to members of the Bar who represent securities dealers and relevant associations. Copies of the regulatory revisions will also be posted on the Office of the Attorney General's website.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The below represents the substance of comments sent to the Department of Law (The "Department") in response to its proposal to amend 13 NYCRR 10 as summarized in the April 15, 2020 edition of the New York State Register (the "Part 10 Proposal"). Below each comment the Department has responded. The final rule adopting the Part 10 Proposal is referred to herein as the "Adopted Rule."

1. Comment: One commenter urged the Department to accept the proposition that an issuer that chooses to take advantage of federal exemptions from registration and files Form D, represents a claim that the issuer of the offering is not offering or selling "to the public" under the Martin Act. The commenter referenced a 2002 paper by the Business Law Section of the New York State Bar Association (the "NYSBA Paper") that concluded that private placements and other unregistered securities offerings pursuant to section 4(a)(2) of the Securities Act of 1933 and Rule 506 were not offered "to the public" under the Martin Act and that no fees or filings are

required. The commenter noted that many practitioners have followed the NYSBA Paper's opinion.

Response: The Department hereby expresses its interpretation of GBL § 359-e(1)(a) with respect to offers "to the public" and rejects the NYSBA Paper's conclusions and the notion that filings pursuant to the Part 10 Proposal are not required. Under the Martin Act, private placements and other offerings to limited amounts of offerees may qualify as offerings "to the public." The Department's interpretation of New York law is supported by GBL § 359-e, GBL § 359-f, and the Court of Appeals' decision in *People v. Landes*, 84 N.Y.2d 655 (1994). First, GBL § 359-e explicitly identifies and excludes the offers or sales of only certain types of "private placement(s)" (e.g., offers of sale made solely to a bank) from its definition of dealer. See GBL § 359-e(1)(a). It naturally follows that other, unidentified private placements are captured under the definition of dealer. The Department views offering or selling these private placements (including, but not limited to, those offered to natural persons) as constituting dealer activity. Second, GBL § 359-f buttresses this conclusion. It explicitly provides for discretionary exemptions for dealers who are engaged in the business of offering to limited offerees, exemptions that would only be necessary if these offerings constituted dealer activity under GBL § 359-e. See GBL § 359-f(2)(d). Finally, the Court of Appeals in *Landes* described the factors to be used to determine whether a dealer is offering securities privately or to the public. These factors are: "the number of offerees and their relationship to each other and to the issuer, the number of units offered, the size of the offering, and the manner of the offering." *Landes* at 661. These factors do not rely on the dealer's own determination of which securities exemption to claim. Notably, in *Landes* the Court of Appeals held that an offering sold to just twelve people was made to the public. See *Landes* at 663.

While New York understands that the SEC has deemed that certain transactions do "not involv[e] a public offering within the meaning of section 4(a)(2) of the [33] Act" for the purpose of federal registration requirements, that determination does not define the phrase "to the public" as used in GBL § 359-e(1)(a).

Moreover, the SEC itself has acknowledged that, as a factual matter, offerings it considers not "a public offering" are routinely offered to the public at large and may pose a danger to investors:

As an individual investor, you may be offered an opportunity to invest in an unregistered offering. You may be told that you are being given an exclusive opportunity. The opportunity may come from a broker, acquaintance, friend or relative. You may have seen an advertisement regarding the opportunity. The securities involved may be, among other things, common or preferred stock, limited partnerships interests, a membership interest in a limited liability company, or an investment product such as a note or bond. Keep in mind that private placements can be very risky and any investment may be difficult, if not virtually impossible to sell... Issuers relying on the Rule 506(c) exemption can generally advertise their offerings. As a result, you may see an investment opportunity advertised through the Internet, social media, seminars, print, or radio or television broadcast... Private placements may be pitched as a unique opportunity being offered to only a handful of investors, including you.... Generally, most securities that you acquire in a private placement will be restricted securities.... This issue primarily affects the sale of restricted securities in private companies. Information about a private company is not typically available to the public, and a private company may not provide information to you...

The NYSBA Paper acknowledges that New York State could "impose notice filing requirements substantially similar to those required by Rule 503 and Form D." This is exactly what is being done for Federal Covered Regulation D Securities Dealers in the Part 10 Proposal. Practitioners should take note.

Under the Department's interpretation of GBL 359-e(1)(a), compliance with New York's filing requirements for Federally Covered Regulation D Securities Dealers is mandatory, not voluntary. Failure to make required filings under GBL § 359-e and 13 NYCRR 10 will subject the delinquent filer to liability prescribed under the law.

2. Comment: One commenter requested that the Attorney General state that Form 99 is superseded. Another commenter's submission suggested that it understood that instead of the currently required Form 99 eligible issuers would file the Form D through the North American Association of Securities Administrators' ("NASAA") electronic filing depository system ("EFD").

Response: The Adopted Rule effectively supersedes any requirement that Form 99 be filed by the classes of dealers defined in 10.11(a)(3), (5) and (7). However, the Form 99 will remain available for other dealers not classified in the Proposal, wishing to notice file in New York. In particular, certain dealers filing with the Real Estate Finance Bureau will still be required to file Form 99 pursuant to the Real Estate Finance Bureau's instructions. In addition, issuers of theatrical securities may continue to file the Form 99.

3. Comment: One commenter asked the Department to clarify that the Part 10 Proposal does not apply to Real Estate Finance Bureau filings.

Response: The Adopted Rule is only applicable to filings related to general securities offerings which shall be filed with the Investor Protection Bureau. The Adopted Rule is not applicable to filings with the Real Estate Finance Bureau, such as filings of securities constituted of participation interests or investments in real estate, mortgages or leases, including stocks, bonds, debentures, evidences of interest or indebtedness, limited partnership interests or other security or securities as defined in General Business Law § 352-e, when such securities consist primarily of participation interests or investments in one or more real estate ventures, including cooperative interests in realty. The Real Estate Finance Bureau may accept filings through EFD at a later date and will provide notice of any such change.

4. Comment: One commenter notes that 13 NYCRR 10.3(d) requires the filing of an amended Form D with the Department whenever such amendment is filed with the SEC but notes that such filings are annual as opposed to the Department's quadrennial schedule. The commenter requests that the Department clarify that such annual amendments do not require payment of a fee.

Response: The Department agrees that while such annual renewal filings must be filed with OAG through EFD, that such filings will not require any annual fee. However, any dealer continuing to offer or sell in New York after the initial four-year filing period must again pay the statutory fee for dealer registration. Additionally, any amendments to the information in the Form D, even if appearing on the annual amended filing, will constitute a supplemental filing under 10.3 or 10.4 and require payment of the \$30 fee.

5. Comment: One Commenter noted that while they applauded a move to electronic payments, they urged that the Department allow for payment by physical checks in cases of hardship, as opposed to restricting all paper payments.

Response: The Department agrees and has modified the language in 13 NYCRR 10.5 and 10.8 accordingly.

6. Comment: One commenter urged that the Department set a flat fee for filings, which the commenter believed would encourage "voluntary" filing.

Response: The Department may ultimately propose a flat fee for such filings. However, the Department rejects the notion that filings under the Adopted Rule are submitted on a voluntary basis. Failure to timely submit a filing under 13 NYCRR 10 as amended, will constitute a violation of law. The Attorney General is authorized to seek relief under GBL § 352 et seq for violations of GBL § 359-e or the rules thereunder. Such remedies include, inter alia suspending the offer or sale of securities within New York as a result of the failure to submit any filing or fee required under law.

7. Comment: One commenter noted that EFD should be explicitly authorized as an e-payment system.

Response: Use of EFD is clearly authorized by rules adopted under the Adopted Rule. However, the Department anticipates implementing additional e-payment systems for filings not eligible for EFD.

8. Comment: One commenter questioned whether the inclusion of Section 18(b)(4)(G) in the definition of Federal Regulation D Covered Securities in the Part 10 Proposal is necessary. The commenter highlighted that a person selling securities under 18(b)(4)(G) cannot file a Form D with the SEC, as any such sale would be a non-issuer resale transaction.

Response: The Department has adopted this comment. As Section 18(b)(4)(G) does not apply to issuers, it has been removed from the definition of Federal Covered Regulation D Securities in the Adopted Rule.

9. Comment: One commenter expressed concern over the classification of "finder" as a type of Broker requiring an examination and registration. The commenter suggests the definition of Broker under "GBL § 359-e(1)(b) provides enough of a means of regulating the type of activity that would warrant registration and examination." The commenter expressed concern that "licensing requirements for this class of person could dampen legitimate activity." Another commenter recommended against defining "finder" as the SEC is reviewing the status of finders.

Response: Finder conduct is a subset of conduct defined under GBL § 359-e(1)(b), and thus already requires registration. Based on the comments, and in light of recent proposals by the SEC, the reference to finder has been removed from the Adopted Rule. Instead, OAG intends to issue guidance on the types of finder activity that constitute broker activity under GBL 359-e(1)(b) and any registration requirement for such finders.

10. Comment: One Commenter suggested that the Department include time for a transition period to the EFD system once EFD accepts Form NF.

Response: The Adopted Rule been modified slightly to allow for a transition period.

11. Comment: One Commenter suggests changing 13 NYCRR 10.11(b) to clarify that the Form D filing deadline is triggered by sales within New York State.

Response: The Department has added clarifying language in the Adopted Rule.

12. Comment: One commenter urged the Department to consider accepting a consent to service for Form D filings in the form provided on the Form D in lieu of the separate Form U-2 consent to service filed with the Department of State.

Response: All Form D issuers using the EFD system must agree to consent to service language substantially similar to the Form U-2, which is currently accepted by the state. Thus, the Department will accept the EFD filing including the issuer's agreement to the system's consent to service language as sufficient consent to service. The Department has removed from the adopted rules the additional U-2 filing, for EFD filings only. The Department notes that nothing in this assessment of comment or the filing of a Form D, Form U-2 or other consent to service in New York, limits the operation of GBL 352-a or GBL 352-b, or any other state law.

Metro-North Commuter Railroad

EMERGENCY RULE MAKING

Requiring Mask Wearing Covering the Nose and Mouth When Using Terminals, Stations and Trains Operated by Metro-North Railroad

I.D. No. MCR-39-20-00004-E

Filing No. 728

Filing Date: 2020-11-13

Effective Date: 2020-11-13

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 1085 of Title 21 NYCRR.

Statutory authority: Public Authorities Law, section 1266(4) and (5)

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: The emergency amendment is necessary to safeguard public health and safety and to ensure through mandated mask wearing covering the nose and mouth that the public, health care providers, first responders, and other essential workers who rely on subways and trains to get to and from work and also our employees are protected during the COVID-19 outbreak.

Subject: Requiring mask wearing covering the nose and mouth when using terminals, stations and trains operated by Metro-North Railroad.

Purpose: To safeguard the public health and safety by amending rules requiring use of masks when using Metro-North facilities.

Text of emergency rule: Section 1085.4 is amended to add a new subdivision (g) to read as follows:

(g) All persons in a terminal, station or train shall comply with all law-fil orders and directives of any police officer, peace officer or any Metro-North Railroad or Authority employee acting within the scope of their employment, including one pursuant to an order or directive issued by the Governor of the State of New York pursuant to a state disaster emergency relating to public health or an order or directive issued by the Authority that includes requiring the wearing of masks or face coverings by any individual who is over the age of two and is able to medically tolerate a face-covering. Masks or face coverings must be worn in a manner covering the nose and mouth. Any person who does not comply with such an order or directive requiring wearing of masks or face coverings in a manner covering the nose and mouth may be barred from entering, or be ejected from, any terminal, station, or train, in addition to a fine of \$50.00.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. MCR-39-20-00004-EP, Issue of September 30, 2020. The emergency rule will expire January 11, 2021.

Text of rule and any required statements and analyses may be obtained from: Peter Sistrom, Metropolitan Transportation Authority, 2 Broadway, New York, New York 10004, (212) 878-7176, email: psistrom@mtahq.org

Regulatory Impact Statement

Statutory authority: Section 1204(5-a) provides that the New York City Transit Authority may adopt rules and regulations governing the conduct

and safety of the public as it may deem necessary, convenient or desirable for the use and operation of the transit facilities under its jurisdiction; Sections 1266(4) and (5) of the Public Authorities Law provide that the Metropolitan Transportation Authority and its subsidiary public benefit corporations may adopt rules and regulations governing the conduct and safety of the public as they may deem necessary, convenient or desirable for the use of any transportation facility and related services operated by it or its subsidiaries. Under the Executive Law, the Governor has declared a state disaster emergency and has issued Executive Order 202.18, which requires "any person utilizing public or private transportation carriers or other for-hire vehicles, who is over age two and able to medically tolerate a face covering, [to] wear a mask or face covering over the nose and mouth during any such trip."

Legislative objectives: The Legislature has conferred on the New York City Transit Authority and the Metropolitan Transportation Authority and their subsidiaries the authority to ensure the safety of their passengers and employees. Both have exercised that authority to adopt rules of conduct governing the conduct and safety of the public in the use of their facilities; this amended rule furthers the Legislature's objective by safeguarding public health and safety during the State disaster emergency related to the COVID-19 outbreak and after.

Needs and benefits: The proposed amendment is necessary to safeguard public health and safety to ensure that persons who rely on subways to get to and from work comply with the public health guidance to wear a mask or face covering to try to limit the transmission of COVID-19.

Costs:

(a) Regulated parties. The proposed amendments to the rules governing conduct and safety do not impose new costs on passengers or others.

(b) State and local government. The proposed amendments to the rules governing conduct and safety will not impose any new costs on State or local governments.

Local government mandates: The proposed amended rules do not impose any new programs, services, duties or responsibilities on local government. The New York City Police Department's Transit Bureau is already responsible with others in enforcing the New York City Transit Authority's Rules Governing the Conduct and Safety of the Public, and the MTA Police Department is responsible for enforcing the comparable rules and regulations governing the conduct and safety of the public on trains and stations operated by the Metropolitan Transportation Authority's two commuter railroads.

Paperwork: The proposed amended rules do not impose any new reporting requirements.

Duplication: The proposed amended rules do not duplicate, overlap, or conflict with any State or Federal rule.

Alternatives: No significant alternatives to these amendments were considered.

Federal standards: The proposed amended rule does not exceed any Federal minimum standards.

Compliance schedule: There is no compliance schedule imposed by these proposed amended rules. Once adopted, the emergency amendment to the existing rules governing the conduct and safety of the public will be effective immediately.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small businesses and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking because it will not adversely affect small businesses, local governments, rural areas, or jobs.

This rulemaking will authorize law enforcement officers and designated employees of the Metropolitan Transportation Authority and Metro-North Railroad to enforce compliance with orders and directives issued by the Governor of the State of New York pursuant to a state disaster emergency relating to public health or the Metropolitan Transportation Authority requiring persons in a terminal, station or train to wear masks or face coverings in a manner covering the nose and mouth. Due to its narrow focus, this proposed emergency rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses or local governments in rural or urban areas or on jobs and employment opportunities.

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Petition to Submeter Electricity

I.D. No. PSC-48-20-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering petition of 130 William Street Associates, LLC to submeter electricity at 130 William Street, New York, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Petition to submeter electricity.

Purpose: To ensure adequate submetering equipment and consumer protections are in place.

Substance of proposed rule: The Commission is considering the petition filed on July 21, 2020 by 130 William Street Associates, LLC seeking authority to submeter electricity at a new condominium building located at 130 William Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the petition, 130 William Street Associates, LLC request authorization to take electric service from Con Edison and then distribute and meter that electricity to its tenants. Submetering of electricity to residential tenants is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0363SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Partial Waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process

I.D. No. PSC-48-20-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition filed on November 3, 2020 by Chief Energy Power, LLC and Chief Energy Gas, LLC for a partial waiver of the Commission's December 12, 2019 Order.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.

Purpose: To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed on November 3, 2020 by Chief Energy

Power, LLC and Chief Energy Gas, LLC (together, Chief Energy) for a partial waiver of the Commission's Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process, issued on December 12, 2019 in Case 15-M-0127, et al. (December 2019 Order).

The December 2019 Order, among other things, limited the types of products that energy service companies (ESCOs) can offer to New York mass market customers to those products that: (1) include a guaranteed savings over the utility price, as reconciled on an annual basis; (2) are for a fixed-rate commodity product that is priced at no more than 5% greater than the trailing 12-month average utility supply rate; and, (3) are for a renewably sourced electric commodity product that (a) has a renewable mix that is at least 50% greater than the ESCO's current Renewable Energy Standard (RES) obligation, and (b) the ESCO complies with the RES locational and delivery requirements when procuring Renewable Energy Credits (RECs) or entering into bilateral contracts for renewable commodity supply. Additionally, the December 2019 Order allowed for an additional product to be offered by Agway Energy Services, LLC (Agway) who provides customers with its EnergyGuard service. The December 2019 Order provided a limited opportunity for other ESCOs to petition the Commission for the opportunity to sell a product/service similar to EnergyGuard.

Chief Energy requests that the Commission waive portions of the December 2019 Order and permit it to offer two green gas products, a "Carbon Reduction" product and "Cleaner Natural Gas" product, to mass market customers in New York. According to Chief Energy, green gas products can help the State achieve its clean-energy goals in the same manner as green electric products by allowing customers to support the development of renewable generation, reduce energy consumption, reduce carbon dioxide emissions, and engage in the clean energy movement.

Chief Energy proposes two types of green gas products that, like the permissible green electric product, are supported by an environmental attribute for at least fifty percent of the customer's load. According to Chief Energy, both products should be permitted as compliant energy related, value added products because they provide customers with more than a standard plain-vanilla commodity, provide a benefit to customers, align with State energy policy objectives, and offer quantifiable value.

The Carbon Reduction product, Chief Energy asserts, will provide customers the opportunity to offset carbon emissions in proportion to their natural gas usage. Chief Energy proposes to acquire, bank, and retire carbon dioxide (CO₂) allowances obtained through the Regional Greenhouse Gas Initiative (RGGI) on behalf of its customers who enroll in the Carbon Reduction product. More specifically, Chief Energy states that for each individual customer who enrolls in the Carbon Reduction product, Chief Energy will calculate the customer's aggregated CO₂ footprint from natural gas usage and then offset at least fifty percent of that CO₂ footprint by acquiring RGGI CO₂ allowances. The carbon allowances acquired in support of the Carbon Reduction product, Chief Energy asserts, will directly support New York's goal to decarbonize its economy.

The Cleaner Natural Gas product, Chief Energy asserts, will support further development of renewable energy certificate (REC) markets by offsetting customers' natural gas usage with RECs. For each customer enrolled in this product, Chief Energy proposes to offset at least fifty percent of that customer's natural gas usage by purchasing and retiring RECs (or making an Alternative Compliance Payments to the New York State Energy Research and Development Authority) under terms comparable to the renewably sourced electric product.

Finally, Chief Energy argues that it is reasonable, appropriate, and procedurally efficient for the Commission to consider its petition in the same timeframe as the other similar petitions currently pending before the Commission.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6517, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SP30)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

PSC Regulations 16 NYCRR 86.3(a)(2), 86.3(a)(2)(iv) and 88.4(a)(4)

I.D. No. PSC-48-20-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a motion filed by New York Transco, LLC for waiver of certain provisions of 16 NYCRR regarding requirements for applications under PSL Article VII for Certificates of Environmental Compatibility and Public Need.

Statutory authority: Public Service Law, sections 4 and 122

Subject: PSC regulations 16 NYCRR 86.3(a)(2), 86.3(a)(2)(iv) and 88.4(a)(4).

Purpose: To consider a waiver of certain regulations relating to the content of an application for transmission line siting.

Substance of proposed rule: The Public Service Commission is considering a motion filed by New York Transco LLC (Transco), on November 5, 2020, for a waiver of certain requirements for the content of an application for authority to construct and operate an electric transmission line pursuant to Public Service Law Article VII.

Transco proposes to construct, operate, and maintain the Rock Tavern to Sugarloaf project (the Project) located within the Towns of New Windsor, Hamptonburgh, Blooming Grove, and Chester in Orange County. The Project includes the replacement of an existing 12-mile overhead 115 kilovolt (kV) electric transmission line and associated transmission towers, and upgrades to the existing Rock Tavern substation and Sugarloaf switcher stations. The Project also includes construction of a new 138 kV tie line that would exit the Sugarloaf Substation and terminate at the existing 138 kV Sugarloaf Switching Station.

As part of the application process, Transco has moved for a waiver of Commission regulation 16 NYCRR § 86.3(a)(2), which requires that an Article VII application include New York State Department of Transportation (DOT) topographic maps at a scale of 1:250,000. Stating that the required maps are not practical to depict the Project area with sufficient detail and resolution to usefully differentiate the information required to be depicted on the maps, Transco seeks to provide the information on DOT maps at a 1:24,000 scale. Transco further seeks waiver of the provision in 16 NYCRR § 86.3(a)(2)(iv), which requires an applicant to show on its map the relationship of the proposed facility to the applicant's overall system with respect to "nearby, crossing or connecting rights-of-way or facilities of other utilities." Transco states that providing this information at the scale of 1:24,000 is not practical and it proposes instead to satisfy the requirement by providing the information within the aerial imagery contained in its application materials as Figure 2-5, which shows all the areas within 1,200 feet of the Project's right-of-way at a scale of 1:4,800. Lastly, Transco seeks a waiver of 16 NYCRR § 88.4(a)(4), which requires Article VII applicants to provide appropriate system studies including the system reliability impact study undertaken pursuant to the New York Independent System Operator (NYISO) interconnection process. Transco states that as a result of recent amendments to the NYISO Open Access Transmission Tariff, new transmission projects are no longer required to obtain a System Reliability Impact Study and therefore one is not available for this Project. Instead, Transco asserts, the NYISO tariff required it to obtain a System Impact Study (SIS) that is functionally identical. Transco's SIS was approved by NYISO's Operating Committee on October 11, 2018.

The full text of the motion, the certificate application, and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-T-0549SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Tariff Modifications to Change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge Provisions

I.D. No. PSC-48-20-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition filed by National Fuel Gas Distribution Corporation to modify its Monthly Gas Supply Charge tariff provisions, of P.S.C. No. 9 — Gas, to allow for procurement and recovery of associated costs of renewable gas.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions.

Purpose: To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Substance of proposed rule: The Commission is considering a petition filed by the National Fuel Gas Distribution Corporation (Company) on October 9, 2020, to modify its gas schedule P.S.C. No. 9 — Gas, specifically the monthly gas supply charge (GSC) tariff provisions, to allow for the procurement and associated cost recovery of renewable natural gas (RNG).

The Company proposes to recover demand and commodity charges related to RNG projects as gas supply costs through the monthly GSC. In order to mitigate the potential RNG cost impacts, the Company is proposing to limit RNG commodity purchases to 2% of its total volumetric purchases.

The Company proposes to amend General Information Section 0, Leaf 61 of its tariff to specify that the commodity and demand charges that make up the monthly GSC are inclusive of costs associated with RNG. The Company asserts that this change would allow it to utilize its existing gas network to deliver a new source of renewable energy in furtherance of the intent of the Climate Leadership and Community Protection Act (CLCPA), and the Commission's energy and climate goals. Additionally, the Company proposes to build, own, operate, and maintain up to 1,000 feet of piping necessary to connect each RNG facility to the Company's gas distribution system, and that the Commission authorize the Company to defer such costs.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-G-0498SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Proposed Modifications to Rider T—Commercial Demand Response Program

I.D. No. PSC-48-20-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. to revise Rider T—Commercial Demand Response Program (CDRP) contained in its electric tariff schedule, P.S.C. No. 10—Electricity.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Proposed modifications to Rider T - Commercial Demand Response Program.

Purpose: To consider revisions to Rider T - CDRP for the 2021 Capability Period.

Substance of proposed rule: The Public Service Commission is considering a petition, with related tariff amendments, filed on November 2, 2020 by Consolidated Edison Company of New York, Inc. (Con Edison or the Company), to revise its electric tariff schedule, P.S.C. No. 10 – Electricity. Con Edison proposes to revise Rider T – Commercial Demand Response Programs (CDRP) to be effective for the 2021 Capability Period.

Con Edison proposes to: 1) allow calling of Commercial System Relief Program (CSRP) events on days when heat and humidity are projected to exceed a given threshold so the CSRP can contribute to managing localized system peaks on days when a system as a whole is less likely to reach a peak load threshold; 2) allow Distribution Load Relief Program (DLRP) program participants to differentiate their pledged demand reductions between weekdays and weekends with two separate pledges; 3) allow calling DLRP events after 6:00 pm; 4) extend emission control requirements to DLRP Participants to be consistent with recently amended Department of Environmental Conservation regulations for distributed generation sources; and 5) extend changes to metering communications requirements. The proposed amendments have an effective date of February 28, 2021.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0547SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Siting of Major Transmission Facilities in New or Existing Rights of Way That Qualify for Expedited Process

I.D. No. PSC-48-20-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of Subpart 85-3 to Title 16 NYCRR.

Statutory authority: Public Service Law, section 123(3)(b)

Subject: Siting of major transmission facilities in new or existing rights of way that qualify for expedited process.

Purpose: To establish expedited requirements for the siting, construction and operation of major transmission facilities.

Text of proposed rule: Subpart 85-3 – Procedures with Respect to Expedited Proceedings

Section 85-3.1 Definitions.

As used in this Subpart:

(a) “Right-of-way” shall mean (i) real property that is used or authorized to be used for electric utility purposes, or (ii) real property owned or controlled by or under the jurisdiction of the state, a distribution utility, or a state public authority including by means of ownership, lease or easement, that is used or authorized to be used for transportation or canal purposes.

(b) “Site” shall mean the right-of-way, including necessary extensions or expansions; all areas adjacent to or intersecting the right-of-way that

may be impacted by construction activities; and areas not adjacent to the right-of-way that will be used during construction or maintenance of the facility and associated equipment, such as staging yards, parking, equipment storage areas, access roads, and temporary work areas.

(c) “Expedited process” shall mean a process for proceedings on applications for a major electric transmission facility that is completed in all respects, including a final decision by the commission, within nine months from the date of a determination by the secretary of the commission that an application is deemed complete; except that, if the applicant notices the application for settlement, the nine-month timeframe shall be tolled until such time that settlement discussions are suspended.

85-3.2 Applicability.

The following applications for a “major utility transmission facility,” as that term is defined in section 120(2)(a) of the Public Service Law, shall, upon the request of the applicant, be subject to the expedited process:

(a) applications for a facility that would be constructed within existing rights of way;

(b) applications for a facility that would not result in any significant adverse environmental impacts, considering the current uses and conditions existing at the Site; and

(c) applications for a facility where expansion of existing rights-of-way is necessary for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields.

85-3.3 Content of application.

An applicant seeking a certificate under this section shall comply with the requirements of 16 NYCRR Parts 85, 86, and 88, except for the following:

(a) Maps submitted pursuant to 16 NYCRR Subpart 86.3 in Exhibit 2 shall be recent edition topographic maps (at a scale of 1:24,000) for an area of at least three miles on either side of the proposed centerline. Maps must distinguish existing right-of-way (as of date of filing) from any new right-of-way required to construct and operate the facility. The exhibit shall include a statement explaining what new right-of-way would be used and why such new right-of-way is necessary for the construction or operation of the facility.

(b) Applications subject to Section 85-3.2(a) or (c) of these rules that propose to rebuild, replace, or upgrade existing transmission facilities in existing rights of way shall be exempt from the following requirements:

(1) 16 NYCRR Subpart 86.7.

(2) 16 NYCRR Subpart 86.5(a) and (b), except that the applicant shall submit a statement describing the environmental impact of the proposed facility on the environment, including the following:

(i) A detailed description of the environmental conditions at the Site and the current uses of the Site and any facilities or structures located thereon;

(ii) A summary of any studies which have been performed of the environmental impact of the project and copies of such studies;

(iii) A description of the planned construction work and identification of the potential environmental impacts associated with construction and operation of the facility, including potential impacts to wildlife and their habitat and agricultural uses on and adjacent to the right-of-way or Site;

(iv) A draft plan or plans demonstrating the construction practices the applicant would utilize in order to minimize or avoid significant adverse environmental impacts to the right-of-way and adjacent areas;

(v) A draft plan for the clean-up and restoration of the Site following construction; and

(vi) A vegetation management plan or plans.

(3) 16 NYCRR Subpart 88.5, unless the applicant expects the effect of the proposed project on communications to be different from the effect produced by the existing facilities.

(4) 16 NYCRR Subpart 88.6, unless the applicant expects the future operation of the facility would have an effect on transportation systems that would be different from the effect of the existing facilities.

(c) Applications subject to this Subpart shall be exempt from the requirement of 16 NYCRR Subpart 88.4(a)(4) to provide a New York Independent System Operator study if no such study is required for the proposed project.

85-3.4 Procedures regarding application.

(a) The public hearing on an application submitted under this Subpart required by Section 123 of the Public Service Law shall be held no less than 60 days and not more than 90 days after the compliance determination. Following the public hearing, the hearing examiner shall determine, within 30 days, whether any party has raised a substantive and significant issue concerning the application and shall set a schedule for the hearing of any such issues. If the hearing examiner determines no such issues are raised, the applicant shall, within 30 days after the hearing examiner’s determination, either (1) initiate settlement discussions, or (2) move the commission for issuance of the certificate on the basis of the application, exhibits, and any other information the applicant deems relevant.

(b) The applicant’s motion filed under subdivision (a) of this section

shall set forth the grounds on which the commission may make the findings required under Public Service Law Section 126, with citations to the supporting record, and shall otherwise comply with Subpart 3.6 of Title 16. The Applicant shall serve those parties required to be served under Subpart 85-2.10(a) and Public Service Law Article VII.

(c) The commission may grant the applicant's motion filed under subdivision (a) of this section, and issue an order approving the application for a certificate. Should the commission find that the project is not subject to Subpart 85-3.2 of these rules, it shall suspend consideration of the applicant's motion and remand that action back to the hearing examiner for further proceedings. The hearing examiner shall thereafter set a date for a hearing to determine whether the identified significant adverse environmental impact can be avoided. Upon submission of the record of that hearing, the public service commission shall decide the motion.

85-3.5 Impacts deemed to not result in any significant adverse environmental impacts.

The following are deemed to not result in any significant adverse environmental impacts:

(a) Visual impacts related to an increase in the height of any structures that are 10 feet or less or a change in the number of structures located on the right-of-way, unless such changes affect a protected viewshed including: landmark landscapes; wild, scenic or recreational rivers administered respectively by either the New York State Department of Environmental Conservation or the Adirondack Park Agency pursuant to Environmental Conservation Law Article 15 or Department of Interior pursuant to 16 USC Section 1271; forest preserve lands; scenic vistas specifically identified in the Adirondack Park State Land Master Plan; conservation easement lands; scenic byways designated by the federal or state governments; Scenic districts and scenic roads, designated by the Commissioner of Environmental Conservation pursuant to Environmental Conservation Law Article 49 scenic districts; designated New York State Coastal Area Scenic Areas of Statewide Significance; state parks or historic sites; properties listed or determined eligible for listing on the National or State Registers of Historic Places; areas covered by scenic easements, public parks or recreation areas; locally designated historic or scenic districts and scenic overlooks; and high-use public areas.

(b) Temporary construction access road stream crossings.

(c) Transient or temporary impacts related to construction, such as noise, preparation and use of lay down or staging areas, or air impacts, or non-transient impacts related to compliance with established electric system reliability and safety standards, such as danger tree clearing, so long as such impacts are mitigated to the extent practicable in accordance with best practices as determined by the Department of Public Service.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Elizabeth Grisaru, Deputy Director, Department of Public Service, 3 Empire State Plaza, Albany, New York 12223, (518) 486-2653, email: elizabeth.grisaru@dps.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: Public Service Law § 123(3)(b): "the commission shall promulgate rules or regulations to establish an expedited process for proceedings on applications for a major utility transmission facility as defined in paragraph a of subdivision two of section one hundred twenty of [the Public Service Law] this article that (i) would be constructed within existing rights of way, (ii) the commission determines would not result in any significant adverse environmental impacts considering current uses and conditions existing at the site, or (iii) would necessitate expanding the existing rights-of-way but such expansion is only for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields."

2. Legislative objectives: To establish, pursuant to the Public Service Law (L. 2020, ch. 58, part III, § 21), an expedited process for proceedings on applications for a major utility transmission facility as defined in Public Service Law paragraph a of subdivision two of section one hundred twenty that (i) would be constructed within existing rights of way, (ii) the commission determines would not result in any significant adverse environmental impacts considering current uses and conditions existing at the site, or (iii) would necessitate expanding the existing rights-of-way but such expansion is only for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields.

3. Needs and benefits: These regulations will establish an expedited process for siting, design, construction and operation of certain major electric transmission facilities within new or existing rights of way that would be constructed within existing rights of way, the commission

determines would not result in any significant adverse environmental impacts considering current uses and conditions existing at the site, or would necessitate expanding the existing rights-of-way but such expansion is only for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields. Accordingly, these regulations are required to fulfill the purpose of the amended statute and will assist regulated parties to understand the requirements of the amended statute.

4. Costs: No direct costs are associated with the proposed regulations.

5. Local government mandates: No programs, services, duties or responsibilities will be imposed upon local governments.

6. Paperwork: The proposed regulations are not expected to entail any significant additional paperwork for the Public Service Commission, the industry, or State and local governments beyond that which is already required to comply with the existing siting process under Public Service Law Article VII.

7. Duplications: There are no relevant federal regulations that duplicate, overlap or conflict with the proposed regulations.

8. Alternatives: No significant alternatives were considered.

9. Federal standards: Not applicable.

10. Compliance schedule: It is expected that compliance with the proposed regulations will take less time than the existing Public Service Law Article VII process. The proposed regulations are expected to take up to nine months.

Regulatory Flexibility Analysis

1. Effect of rule: Local governments that may be involved with applications for the siting of major transmission facilities within new or existing rights of way that qualify for the expedited process within the State of New York, as well as business entity applicants, are anticipated to be impacted positively by the expedited application and review process proposed by the regulations.

2. Compliance requirements: No compliance requirements will be imposed upon any local government.

3. Professional services: None required.

4. Compliance costs: No costs are expected to be imposed upon local governments. However, to the extent local governments incur costs associated with their participation in the siting process, those costs may be eligible for reimbursement through intervenor funding, if applicable, in accordance with Public Service Law § 122(5)(a). No initial capital costs will be imposed upon any business entity. Costs associated with applicant compliance with the proposed expedited application process will vary in proportion to the size of the major transmission facility being proposed. Such costs, however, are anticipated to be substantially similar to costs associated with the current review and approval process. Moreover, potential increased costs to applicants, if any, will likely be offset by reduced costs realized by the shortened time frames in the proposed regulations for applicants to receive approvals and commence operations.

5. Economic and technological feasibility: Feasibility of compliance with the process proposed by the regulations is expected to be the same or greater than the existing siting process under Public Service Law Article VII.

6. Minimizing adverse impact: The proposed regulations will minimize impacts on pertinent businesses and local governments by streamlining the application, review and approval processes for major transmission facilities within new or existing rights of way that qualify for the expedited process and input through pre-publication outreach and through public hearings held prior to adoption.

7. Small business and local government participation: Prior to adopting the regulations, the Department of Public Service (Department) provided small business and local governments the ability to participate. Specifically, the Department of Public Service (Department) complied with State Administrative Procedures Law (SAPA) § 202-b(6) by posting the initial proposed rule on the Public Service Commission's Document and Matter Management (DMM) system under Case 20-T-0288 on its website on September 3, 2020 for informal outreach and notified certain organizations that the initial proposed rule had been posted. Upon review of comments submitted, the Department posted an amended proposed rule on the Public Service Commission's Document and Matter Management system under Case 20-T-0288 on its website on October 20, 2020 for informal outreach and again notified certain organizations that the amended proposed rule had been posted. The Department also will comply with SAPA § 202-b(6) by publishing the proposed amendment in the State Register to provide for the opportunity to consider public comments on the proposed regulations in accordance with the SAPA § 102(2).

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: The proposed regulations will apply to all rural areas of the State.

2. Reporting, recordkeeping, and other compliance requirements; and professional services: No reporting, recordkeeping or compliance requirements will be imposed on rural local governments, business entities or the public.

3. Costs: No compliance costs are expected to be imposed upon rural area local government or business entities or the public.

4. Minimizing adverse impact: Pursuant to Public Service Law § 123(3)(b), the proposed regulations are designed to avoid, minimize or mitigate any potential adverse environmental impacts from the siting, design, construction and operation of major transmission facilities in new or existing rights of way, that qualify for the expedited process, to be sited.

5. Rural area participation: Prior to adopting the regulations, the Public Service Commission shall provide for the opportunity to consider comments on the proposed regulations in accordance with the State Administrative Procedures Act § 102(2).

Job Impact Statement

1. Nature of impact: Given that the proposed regulations are part of a program that will establish an expedited process for siting major transmission facilities in new or existing rights of way, it is evident from the subject matter of the proposal that it will likely have a positive impact on jobs and employment opportunities. To the contrary, it is evident from the subject matter of the regulations that they could only have either no impact or a positive impact on jobs and employment opportunities. The regulations are anticipated to create new opportunities for residents of the state, including opportunities related to the construction, maintenance and operation of approved facilities. In addition, to the extent that non-resident temporary construction workers may be employed for planning, design and construction purposes, the regulations will support hospitality-related employment opportunities for residents of the state.

2. Categories and numbers affected: No adverse impacts on jobs or employment opportunities are expected.

3. Regions of adverse impact: No adverse impacts on jobs or employment are expected.

4. Minimizing adverse impact: No adverse impacts on jobs or employment are expected. Rather, as described above, the proposed regulations will likely create new opportunities related to construction, maintenance and operation of facilities, as well as opportunities in hospitality industries.

Department of State

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Procedures and Requirements Related to the Filing of Certificates by the Department of State's Division of Corporations

I.D. No. DOS-48-20-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Repeal of sections 145.1, 145.2, 154.5(e), (f), 154.6, 154.7; amendment of sections 150.1, 154.3, 154.4, 154.5(a), (c), (d), 156.3(d); addition of section 150.8 to Title 19 NYCRR.

Statutory authority: Executive Law, section 91

Subject: Procedures and requirements related to the filing of certificates by the Department of State's Division of Corporations.

Purpose: To clarify and update procedures related to the filing of certificates with the Division of Corporations.

Text of proposed rule: 19 NYCRR, Chapter IV, Parts 145, 150, 154 and 156 are amended as follows:

19 NYCRR Section 145.1 is repealed.

19 NYCRR Section 145.2 is repealed.

19 NYCRR Section 150.1 is amended to read as follows:

All paper documents offered for filing must include a backer, thereon which appears the exact title of the document and the name and address of the filer. *The backer for documents related to an entity currently on file with the division must include the Department of State identification number assigned to the entity.* Documents on paper shall be no larger than 8 1/2 inches by 11 inches. Documents not on paper, where allowed, shall be of a size and in a medium consistent with the technology used by the Department of State to receive, make, and retain the resulting record. Title on the backer must be consistent with the content of the document.

19 NYCRR Section 150.5 is amended to read as follows:

The department shall not issue duplicate receipts except on satisfactory evidence that the original was never received. A request for a duplicate receipt must be made within [six] three months of the date of the receipted transaction. All duplicate receipts will be annotated as such.

New Section 150.8 is added to Title 19 read as follows:

Filing date.

The date of filing of a certificate or other instrument submitted to the Division of Corporations for filing shall be the date the certificate or other instrument is received by the Division as determined by the Division.

If a certificate or other instrument is determined by the Division to be unacceptable for filing, the Division may return the certificate or other instrument to the filer, together with a brief written explanation of the reason for the refusal to file. If the filer returns the certificate or other instrument to the Division with revisions within 30 days after it was mailed or otherwise returned to the filer by the Division and the Division determines the certificate or other instrument is acceptable for filing, the filing date of the instrument will be the filing date that would have been applied had the original certificate or other instrument not been deficient. Revisions to the certificate or other instrument shall be limited to the reason for the Division's refusal to file the certificate or other instrument.

If a certificate or other instrument which has previously been determined by the Division to be unacceptable for filing is returned to the Division with revisions within the time required by this section and the Division again determines the certificate or other instrument to be unacceptable for filing, the Division may return the certificate or other instrument to the filer, together with a brief written explanation of the reason for the refusal to file. If the filer subsequently returns the certificate or other instrument to the Division with revisions in accordance with the rules of the Division within 30 days after it was last mailed or otherwise returned to the filer by the Division, and the Division determines the certificate or other instrument is acceptable for filing, the filing date of the certificate or other instrument will be the filing date that would have been applied had the original certificate or other instrument not been deficient. Revisions to the certificate or other instrument shall be limited to the reason for the Division's refusal to file the certificate or other instrument. This procedure may continue until the certificate or other instrument is either accepted for filing by the Division or the filer does not return the certificate or other instrument to the Division within the time period required by this section.

19 NYCRR Section 154.3 is amended to read as follows:

All requests must be accompanied by the prescribed fee at the time of the submittal of the certificate or other instrument or request for service. Failure to include said fee shall render the request for expedited handling void. The fee for expedited handling shall be payable separately. Where a certificate or other instrument was submitted to the Division with the prescribed fee for expedited handling and the Division determined the certificate or other instrument was not acceptable for filing, the revised certificate or other instrument may be re-submitted to the Division by the filer without the payment of the prescribed expedited handling fee and such certificate or other instrument will be processed by the Division pursuant to the original request for expedited handling, provided such certificate or other instrument is re-submitted to the Division within 30 days after it was last mailed or otherwise returned to the filer by the Division. Each request to file a certificate or other instrument will require a separate expedited handling fee. A single request which includes multiple services related to a single entity and no more than one request to file a certificate or other instrument will require only one expedited handling fee.

19 NYCRR Section 154.4 is amended to read as follows:

Requests by mail, email, electronic or similar means.

All requests must clearly describe the expedited service requested, the name of the entity, the name of the service company or agent, if applicable, and any other information the Division may from time to time require.

All requests, made by mail or similar means, must be addressed to Attention: Expedited Handling [Section], NYS Department of State, Division of Corporations, One Commerce Plaza, 99 Washington Avenue, Suite 600, Albany, NY 12231-0001 Any such request received by the division shall be stamped with the hour of receipt thereof, at which time the period of time for performance by the division shall commence. [If the request is for the filing of a certificate for which a preclearance of the proposed name has been obtained, this fact must be stated in the request. A separate request and fee must be submitted each time an instrument is presented to the division.]

Requests made by email or through an electronic filing system operated by the Division received on weekends, holidays, or on any other day or time when the Division is not open for business will be deemed received by the Division at the start of the next business day at which time the period of time for performance by the Division shall commence.

19 NYCRR Section 154.5 title is amended to read as follows:

Requests [by service companies or agents] delivered to the Division of Corporations in person.

19 NYCRR Section 154.5(a) is amended as follows:

(a) Each certificate or other instrument or request for service submitted pursuant to these rules shall have affixed, to the top of each certificate or other instrument or service request, a form, which sets forth the requested service, the name of the organization or entity, the name of the service

company or agent, *if applicable*, and any other information the division may from time to time require.

19 NYCRR Section 154.5(c) is amended as follows:

(c) All requests by *service companies* shall be delivered to the Division by depositing *the certificate or other instrument or service request* in the designated boxes at the service counter for this purpose. *All requests made in person by individuals other than service companies shall be delivered to Division staff at the service counter or as otherwise directed by the Division.*

19 NYCRR Section 154.5(d) is amended as follows:

(d) The division shall pick up all requests from the *service counter* every hour on the hour [, beginning at 8 a.m. and continuing through 4 p.m] *during the business day*. Each request shall be time-stamped with the hour of receipt thereof, at which time the period for performance by the division shall commence.

19 NYCRR Section 154.5(e) is repealed.

19 NYCRR Section 154.5(f) is repealed.

19 NYCRR Section 154.6 is repealed.

19 NYCRR Section 154.7 is repealed.

19 NYCRR Section 156.3(d) is amended to read as follows:

(d) Terms indicating form.

(1) A fictitious name of a corporation shall contain no indicator of organizational form (e.g., corporation, limited, *incorporated* [partnership, limited liability company], or the respective abbreviation).

Text of proposed rule and any required statements and analyses may be obtained from: Krystal Cropsey, Department of State, Division of Corporations, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231-0001, (518) 473-7172, email: Krystal.Cropsey@dos.ny.gov

Data, views or arguments may be submitted to: Gary Trechel, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231-0001, (518) 473-2278, email: Gary.Trechel@dos.ny.gov

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory authority:

Executive Law section 91 authorizes the Secretary of State to adopt and promulgate rules which regulate and control the exercise of the powers of the Department of State and the performance of the duties of officers and employees of the Department.

2. Legislative objectives:

Laws including, but not limited to, the Business Corporation Law, Not-for-Profit Corporation Law, Limited Liability Company Law, Partnership Law and General Associations Law require certificates and other instruments to be filed with the Department of State by entities governed by such laws. Certificates and other instruments which conform with the requirements of such laws are accepted and filed by the Division of Corporations.

Executive Law section 96 permits the Department of State's Division of Corporations to offer expedited handling for services related to corporations, limited liability companies and other business entities as prescribed by law. These services include the filing of documents such as certificates of incorporation, articles of organization and certificates of merger. In addition, the Division of Corporations also provides certified copies of documents on file and certificates of status evidencing the existence of corporations and other business entities. The Executive Law permits expedited requests for such services to be completed within twenty-four hours of the request, on the same day as the request, or within two hours of the request for an additional fee.

3. Needs and benefits:

The proposed rulemaking would set forth the procedures which will be used by the Department of State Division of Corporations in processing and filing certificates and other instruments for business corporations, not-for-profit corporations, limited liability companies and limited partnerships and other business entities that seek to file such documents with the Department of State. The proposed regulations will clarify and simplify procedures for filing corporation and other business entity certificates and other instruments with the Department of State's Division of Corporations. The new text of these regulations would provide guidance regarding filing date for certificates and other instruments submitted to the Department of State for filing. The proposed new text would also simplify current regulations regarding expedited handling services offered by the Division of Corporations, limit the requirement for a "backer" to paper documents and conform the current regulation regarding fictitious names to current provisions in law. The new text of these regulations is needed to conform the Division of Corporation's procedures with the new electronic filing system currently being developed by ITS. This new system will facilitate the filing of business certificates with the Division of Corporations by the public

and produce efficiencies for the Division. The new filing system is expected to be operational in February 2021.

4. Costs:

A. The proposed regulations do not impose any additional costs on the regulated entities: business corporations, not-for-profit corporations, limited liability companies or limited partnerships.

B. The proposed regulations do not impose any additional costs on the Department of State, the State or local governments.

5. Local government mandates:

The proposed regulations do not impose any mandates on local governments.

6. Paperwork:

These proposed regulations do not impose any reporting requirements.

7. Duplication:

These proposed regulations do not duplicate any existing requirements of the state or federal governments.

8. Alternatives:

Laws and regulations in use by other states regarding processing and filing certificates and other instruments by corporations and other business entities were reviewed and considered by the Department of State. These proposed regulations are consistent with the regulations utilized by many comparable states.

9. Federal standards:

The federal government does not have any minimum standards for this subject area.

10. Compliance schedule:

Regulated entities will be able to comply with the proposed regulations upon adoption.

Regulatory Flexibility Analysis

The Department of State has concluded after reviewing the nature and purpose of the proposed rule that its adoption will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses or local governments. The proposed rulemaking would set forth the procedures which will be used by the Department of State Division of Corporations in processing and filing certificates and other instruments for business corporations, not-for-profit corporations, limited liability companies and limited partnerships and other business entities that seek to file such documents with the Department of State. The new text of these regulations would provide guidance regarding filing date for certificates and other instruments submitted to the Department of State for filing. These regulations would also simplify current regulations regarding expedited handling services offered by the Division of Corporations, limit the requirement for a "backer" to paper documents and conform the current regulation regarding fictitious names to current provisions in law. Some of the entities subject to the regulation will be small businesses. However, the impact of the regulation upon small businesses is unlikely to be adverse nor would it differ in any manner from the impact upon other entities subject to the regulation but not to be characterized as small businesses. Rather than impose an adverse economic impact on small businesses or any category of entity affected by the rule, the proposed regulations will provide clear guidance so as to enable each entity to more easily and efficiently file certificates and other instruments with the Division of Corporations.

Local governments will not be subject to the provisions of the proposed regulation and will not be impacted by its adoption.

Rural Area Flexibility Analysis

The Department of State has concluded after reviewing the nature and purpose of the proposed rule that its adoption will not impose any adverse economic impact on rural areas, nor any reporting, record keeping or other compliance requirements on public or private entities in rural areas. The proposed rulemaking would set forth the rules and procedures which will be used by the Department of State Division of Corporations in processing, reviewing and filing certificates and other instruments for business corporations, not-for-profit corporations, limited liability companies, limited partnerships and other business entities submitted to the Department of State for filing. The regulation would not have any individualized impact in rural areas nor upon entities located in rural areas. Any potential impact of the rule will be imposed in rural areas in no greater amount than is imposed in non-rural areas.

Job Impact Statement

A Job Impact Statement is not required because it is evident from the subject matter of the rule that it will have no impact on jobs and employment opportunities.

Workers' Compensation Board

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Reimbursement for COVID-19 Testing

I.D. No. WCB-48-20-00002-EP

Filing No. 730

Filing Date: 2020-11-16

Effective Date: 2020-11-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Proposed Action: Addition of section 329-1.3(d) to Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 117 and 141

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: This amendment is adopted as an emergency measure because the Board wants to provide reimbursement for COVID-19 testing when it is necessary because workers' compensation benefits are being sought due to work-place exposure to COVID-19, in order to confirm current presence of the COVID-19 virus.

Subject: Reimbursement for COVID-19 testing.

Purpose: To allow reimbursement for COVID-19 testing when benefits are sought due to workplace exposure to COVID-19.

Text of emergency/proposed rule: A new subdivision (d) of section 329-1.3 of Title 12 NYCRR is hereby added as follows:

(d) When workers' compensation benefits are sought due to a work-place exposure to COVID-19, reimbursement for serological, molecular or other reliable testing to confirm a current COVID-19 viral infection may be made using CPT code 87635.

(1) The RVU for CPT code 87635 shall be 39.18, and the total fee for such test shall be 51.33 for Region IV, 47.41 for Region III, and 41.53 for Regions I and II.

(2) CPT code 87635 may only be billed when there is a claim for workers' compensation due to a COVID-19 infection as a result of a work-place exposure or when testing for COVID-19 is administered as part of a required pre-operative testing protocol in accordance with Department of Health guidance.

(3) CPT code 87635 may not be billed for routine screening of workers' compensation claimants for the presence of the COVID-19 virus.

(4) Antibody testing is not available under the Official New York Workers' Compensation Fee Schedule.

(5) CPT code 87635 may only be billed in one instance. Repeat testing is not permitted, except when clinical documentation supports a change or reoccurrence of symptoms, or a new exposure to the COVID-19 virus.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire January 14, 2021.

Text of rule and any required statements and analyses may be obtained from: Heather MacMaster, NYS Workers' Compensation Board, Office of General Counsel, 328 State Street Schenectady, NY 12305, (518) 486-9564, email: regulations@wcb.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory authority: Workers' Compensation Law (WCL) § 117(1) authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL.

2. Legislative objectives: The emergency adoption allows reimbursement for COVID-19 testing when there is a claim for workers' compensation benefits due to work-place exposure to COVID-19.

3. Needs and benefits: To provide reimbursement for COVID-19 testing when it is necessary because workers' compensation benefits are being sought due to work-place exposure to COVID-19, in order to confirm current presence of the COVID-19 virus.

4. Costs: The emergency adoption is not expected to have a significant impact on costs, as reimbursement is limited to situations where the employee has had a work-place exposure to the virus.

5. Local government mandates: The proposed amendments do not impose any program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The emergency adoption requires authorized providers to use a CPT code to bill for COVID-19 testing as described above.

7. Duplication: The emergency adoption does not duplicate other regulatory initiatives.

8. Alternatives: An alternative would be to not file an emergency adoption addressing the reimbursement of COVID-19 testing, but without a confirmatory test, there would be no way of showing a workers' compensation claimant is currently infected with COVID-19 when benefits are sought due to workplace exposure.

9. Federal standards: There are no applicable Federal Standards.

10. Compliance schedule: The emergency adoption takes effect immediately upon filing but simply provides guidelines for use of a CPT code that may be used in limited circumstances to confirm COVID-19 infection when workers' compensation benefits are sought due to work-place exposure to COVID-19.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required because the emergency adoption will not have any adverse economic impact or impose any new reporting, recordkeeping or other compliance requirements on small businesses or local governments. The emergency adoption allows authorized providers to be reimbursed for COVID-19 testing when workers' compensation benefits are sought due to work-place exposure to COVID-19.

Rural Area Flexibility Analysis

A Rural Area Impact Statement is not required because the emergency adoption will not have any impact rural areas. The emergency adoption allows authorized providers to be reimbursed for COVID-19 testing when workers' compensation benefits are sought due to work-place exposure to COVID-19.

Job Impact Statement

A Job Impact Statement is not required because the emergency adoption will not have any impact on jobs or employment opportunities. The emergency adoption allows authorized providers to be reimbursed for COVID-19 testing when workers' compensation benefits are sought due to work-place exposure to COVID-19.

HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
Lake George Park Commission		
LGP-43-20-00005-P	Stream Corridor Protection Regulations for the Lake George Park	Fort William Henry, 48 Canada St., Lake George, NY—January 12, 2021, 4:00 p.m.
Public Service Commission		
PSC-41-20-00011-P	Major Gas Rate Filing	Department of Public Service, 19th Fl., Board Rm., 3 Empire State Plaza, Albany, NY—December 15, 2020, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-G-0101
PSC-42-20-00006-P	Proposed Major Rate Increase in National Grid's Delivery Revenues of Approximately \$41.8 Million (or 9.8% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-G-0381
PSC-42-20-00009-P	Proposed Major Rate Increase in National Grid's Delivery Revenues of Approximately \$100.4 Million (or 3.2% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-E-0380
PSC-45-20-00004-P	Major Gas Rate Filing	Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-E-0429
PSC-45-20-00005-P	Major Electric Rate Filing	Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-E-0428
PSC-46-20-00005-P	Recommendations of the DPS Staff Report to Improve Hudson Valley Water's Service	The Public Hearing will be held online and by telephone. Details for access will be published via Notice at the DPS website (www.dps.ny.gov) under Case 20-W-0477—January 19, 2021, 4:00 p.m.*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-W-0477

ACTION PENDING INDEX

The action pending index is a list of all proposed rules which are currently being considered for adoption. A proposed rule is added to the index when the notice of proposed rule making is first published in the *Register*. A proposed rule is removed from the index when any of the following occur: (1) the proposal is adopted as a permanent rule; (2) the proposal is rejected and withdrawn from consideration; or (3) the proposal's notice expires.

Most notices expire in approximately 12 months if the agency does not adopt or reject the proposal within that time. The expiration date is printed in the second column of the action pending index. Some notices, however, never expire. Those notices are identified by the word "exempt" in the second column. Actions pending for one year or more are preceded by an asterisk(*).

For additional information concerning any of the proposals

listed in the action pending index, use the identification number to locate the text of the original notice of proposed rule making. The identification number contains a code which identifies the agency, the issue of the *Register* in which the notice was printed, the year in which the notice was printed and the notice's serial number. The following diagram shows how to read identification number codes.

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	00001	P

Action codes: P — proposed rule making; EP — emergency and proposed rule making (expiration date refers to proposed rule); RP — revised rule making

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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AGRICULTURE AND MARKETS, DEPARTMENT OF

AAM-12-20-00006-P	03/25/21	Calibrating and testing of certain weights and measures standards and devices.	To allow the Dept. to increase the fees it charges in calibrating and testing certain weights & measures standards and devices.
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ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF

ASA-19-20-00001-RP	05/13/21	General service standards applicable to outpatient substance use disorder programs	To set-forth the minimum regulatory requirements for certified outpatient substance use disorder treatment programs.
ASA-28-20-00013-P	07/15/21	Patient Rights	To set-forth the minimum regulatory requirements for patient rights in OASAS certified, funded or otherwise authorized programs
ASA-28-20-00014-P	07/15/21	Specialized Services	To replace the term "chemical dependence" with "addiction"
ASA-28-20-00016-P	07/15/21	Designated Services	To set-forth the minimum regulatory requirements for certified programs to seek an Office designation

AUDIT AND CONTROL, DEPARTMENT OF

AAC-43-20-00004-P	10/28/21	Budgets and Financial Plan Format of Public Authorities	Conform regulations related to the submission of annual budgets and financial plans to the Public Authorities Reform Act of 2009
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CHILDREN AND FAMILY SERVICES, OFFICE OF

*CFS-46-19-00002-RP	03/03/21	Behavioral health services, elimination of room isolation and authority to operate de-escalation rooms	To implement standards for behavioral health services and the operation of de-escalation rooms and to eliminate room isolation
CFS-04-20-00009-P	01/28/21	Host Family Homes	The proposed regulations would establish standards for the approval and administration of host family homes.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-36-20-00001-EP	09/09/21	Define “non-school hours” and “those periods of the year in which school is not in session”	To include virtual and/or remote learning as in school hours
CFS-36-20-00003-P	09/09/21	Requires training on adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency	Requires training on adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency
CFS-46-20-00001-P	11/18/21	Amendment to community guardian program regarding who can complete the annual evaluation or examination	Amendment to community guardian program regarding who can complete the annual evaluation or examination
CIVIL SERVICE, DEPARTMENT OF			
CVS-03-20-00003-P	02/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-03-20-00004-P	02/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-03-20-00005-P	02/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-03-20-00006-P	02/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-03-20-00007-P	02/01/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-06-20-00001-P	02/11/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-20-00002-P	02/11/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-20-00003-P	02/11/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00004-P	02/11/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00005-P	02/11/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-06-20-00006-P	02/11/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-06-20-00007-P	02/11/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-06-20-00008-P	02/11/21	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CVS-13-20-00002-P	04/01/21	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2020
CVS-13-20-00009-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-13-20-00010-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00011-P	04/01/21	Jurisdictional Classification	To delete positions from the exempt class
CVS-13-20-00012-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00013-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00014-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00015-P	04/01/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-13-20-00016-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00017-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00018-P	04/01/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-20-00019-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00020-P	04/01/21	Jurisdictional Classification	To delete positions in the non-competitive class
CVS-13-20-00021-P	04/01/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00022-P	04/01/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00023-P	04/01/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00024-P	04/01/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes.
CVS-13-20-00025-P	04/01/21	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-18-20-00004-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00005-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00006-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00007-P	05/06/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-18-20-00008-P	05/06/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-18-20-00009-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00010-P	05/06/21	Jurisdictional Classification	To delete positions from the non-competitive class

Action Pending Index**NYS Register/December 2, 2020**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-24-20-00002-P	06/17/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-24-20-00003-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00004-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00005-P	06/17/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-20-00006-P	06/17/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-24-20-00007-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00008-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00009-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00010-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-20-00004-P	07/15/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-28-20-00005-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00006-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00007-P	07/15/21	Jurisdictional Classification	To delete a position from the exempt class
CVS-28-20-00008-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00009-P	07/15/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-20-00010-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-28-20-00011-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00012-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-20-00003-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00004-P	08/12/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes
CVS-32-20-00005-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00006-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-41-20-00002-P	10/14/21	Jurisdictional Classification	To delete positions from and to classify a subheading and positions in the exempt class
CVS-41-20-00003-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00004-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00005-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-41-20-00006-P	10/14/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-41-20-00007-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CORRECTION, STATE COMMISSION OF			
*CMC-35-19-00002-P	02/01/21	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
*CCS-35-19-00001-RP	02/01/21	Special Housing Units	Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use
CCS-34-20-00001-P	08/26/21	Family Reunion Program	To clarify for logic and consistency, and make additional changes to the current Family Reunion Program
CCS-38-20-00002-P	09/23/21	Parole Revocation Process and Disposition	Harmonize revocation process with recent amendments to conditions and guidelines and clarify certain delinquency dates
CRIMINAL JUSTICE SERVICES, DIVISION OF			
*CJS-30-19-00010-ERP	02/01/21	Use of Force	Set forth use of force reporting and recordkeeping procedures
CJS-19-20-00010-P	05/13/21	Part 364 - Conditional release conditions.	Conform to the recent changes made by the Legislature by removing the term "gravity knife".
CJS-44-20-00002-P	11/04/21	Intake for Article 7 (PINS)	Update existing Rule to reflect services which will be performed by Probation departments
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-37-20-00003-P	09/16/21	Excelsior Jobs program	Update regulations to include newly enhanced tax credits for green economy projects
EDV-41-20-00014-P	10/14/21	The Excelsior Linked Deposit Program	Administration of the Excelsior Linked Deposit Program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-48-20-00001-P	12/02/21	Employee Training Incentive Program	To update the administrative processes for the ETIP program
EDUCATION DEPARTMENT			
*EDU-17-19-00008-P	02/01/21	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
*EDU-27-19-00010-P	02/01/21	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-11-20-00013-RP	03/23/21	Special Education Impartial Hearing Officers and the Special Education Due Process System Procedures	To address volume of special education due process complaints in the New York City due process system
EDU-16-20-00002-ERP	04/22/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-20-20-00008-ERP	05/20/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-25-20-00008-ERP	06/24/21	Eligibility for Participation of Students With Section 504 or ADA Plans in Interschool Competition and Inclusive Athletics	To clarify the eligibility requirements for participation of students with section 504 or ADA plans in interschool competition
EDU-30-20-00002-P	07/29/21	Creating a transitional J Certificate for Military Spouses	To create a Transitional J certificate for spouses of individuals on full-time active duty with the Armed Forces
EDU-30-20-00003-P	07/29/21	Creating Safety Nets for the Arts Content Specialty Tests (CSTs)	To create a safety net for the Arts Content Specialty Tests (CSTs)
EDU-30-20-00004-ERP	07/29/21	Addressing the COVID-19 crisis and planning for the reopening of schools	To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools
EDU-30-20-00005-P	07/29/21	Creating a Safety Net for the School Building Leader Assessment	To create a safety net for the School Building Leader Assessment
EDU-39-20-00010-P	09/30/21	Financial Transparency Requirement Reporting Deadlines	To permit the Department to establish the financial transparency reporting requirement deadline administratively
EDU-39-20-00011-P	09/30/21	Continuing Education Requirements for Psychologists	To implement Chapter 436 of the 2018 requiring continuing education for psychologists
EDU-39-20-00012-EP	09/30/21	Addressing the COVID-19 Crisis and the Reopening of Schools	To address the COVID-19 crisis and to prepare for the reopening of schools
EDU-39-20-00013-P	09/30/21	Authorize NY higher education institutions to participate in SARA & the approval of out-of-state institutions to provide distance education	To align the Commissioner's regulations with national SARA policy and federal regulations
EDU-48-20-00003-P	12/02/21	Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program	Update and clarify certain terminology related to the use of technology in libraries and to reflect new technologies.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, NEW YORK STATE			
ERD-19-20-00012-P	05/13/21	CO2 Allowance Auction Program	Continued administration and implementation of the CO2 allowance auctions and programs under Part 507
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
*ENV-36-19-00003-P	02/01/21	Stationary Combustion Installations	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.
*ENV-37-19-00003-RP	03/03/21	Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations	To improve the review of projects by removing some project types that are known not to cause harm from the review stream
ENV-04-20-00004-EP	01/28/21	Regulations governing commercial fishing of quota managed species.	To improve efficiency, reduce waste, and increase safety in marine commercial fisheries.
ENV-05-20-00002-P	04/10/21	Sulfur-in Fuel Limitations	Limit sulfur in liquid and solid fuels throughout NYS
ENV-06-20-00018-P	04/16/21	The repeal and replacement of 6 NYCRR Part 230 Gasoline Dispensing Sites and Transport Vehicles	To further reduce harmful volatile organic compounds (VOCs) emitted into the atmosphere.
ENV-06-20-00019-P	04/16/21	Consumer Products	Reduce Volatile Organic Compound emissions from Consumer Products - those products used in the average household.
ENV-06-20-00020-P	04/16/21	New Source Review requirements for proposed new major facilities and major modifications to existing facilities.	To conform to federal NSR rule requirements and related court rulings, correct typographical errors, and clarify rule language.
ENV-12-20-00001-EP	03/25/21	Regulations governing commercial fishing of Tautog (blackfish).	To revise regulations concerning the commercial harvest of Tautog in New York State.
ENV-17-20-00005-P	04/29/21	The above referenced Parts make up the Department's air pollution control permitting program.	The purpose of this rulemaking is to improve the clarity and consistency of the Department's air pollution permitting program
ENV-17-20-00007-P	04/29/21	CO2 Budget trading program	To lower the emissions cap established under Part 242.
ENV-33-20-00005-P	08/19/21	Repeal of Section 485.1	To remove outdated and redundant references in the Department's regulations
ENV-33-20-00007-P	10/20/21	Emissions limits for 2030 and 2050, as a percentage of 1990 levels, required by Climate Leadership and Community Protection Act	To limit greenhouse gas emissions that endanger public health and the environment
ENV-36-20-00002-P	09/09/21	Deer Hunting Seasons	Establish a bow and muzzleloader deer hunting season in the Southern Zone during the Christmas and New Year holiday week
ENV-42-20-00003-EP	10/21/21	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health
ENV-47-20-00004-P	11/25/21	Inland trout stream fishing regulations	To revise and standardize inland trout stream fishing regulations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-47-20-00005-P	11/25/21	Sportfishing (freshwater) and associated activities	To revise and simplify sportfishing regulations and associated activities
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-33-19-00004-RP	02/01/21	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To set forth minimum standards for the content of health insurance identification cards.
*DFS-43-19-00017-P	02/01/21	Independent Dispute Resolution for Emergency Services and Surprise Bills	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-36-20-00007-P	09/09/21	Superintendent's Regulations: Information Subject to Confidential Treatment	Provide rules concerning publication or disclosure of information subject to confidential treatment
DFS-39-20-00025-P	09/30/21	Financial Statement Filings and Accounting Practices and Procedures	To make technical corrections and clarifications, add new subdivisions S. 83.4(t) and (u), and update incorporated references
DFS-45-20-00007-P	11/10/21	Office of Pharmacy Benefits	To establish the Office of Pharmacy Benefits and rules for the Drug Accountability Board
GAMING COMMISSION, NEW YORK STATE			
SGC-33-20-00006-P	08/19/21	Agency rule for the protection of trade secrets submitted to the Gaming Commission	To prescribe the manner of safeguarding against any unauthorized access to records containing trade secrets
SGC-34-20-00009-P	08/26/21	Qualification time in harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-35-20-00002-P	09/02/21	Addition of feature to the Quick Draw lottery game called "Money Dots"	To raise additional revenue for education
SGC-35-20-00003-P	09/02/21	Triple wager in harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-35-20-00004-P	09/02/21	Restricting NSAID use in Thoroughbred racing	To improve integrity, health and safety of Thoroughbred horse racing
SGC-35-20-00005-P	09/02/21	Furosemide use and practice	To enhance horse racing in New York and generate reasonable revenue for the support of government
SGC-35-20-00006-P	09/02/21	Jackpot Super High Five wager for harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-35-20-00007-P	09/02/21	EIPH protections for Thoroughbred horses	EIPH protections for Thoroughbred horses

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
GAMING COMMISSION, NEW YORK STATE			
SGC-35-20-00008-P	09/02/21	Medical fitness of Thoroughbred horse riders and Steeplechase jockey licensing	To improve the health and safetyThoroughbred pari-mutuel racing
SGC-35-20-00009-P	09/02/21	Backstretch housing standards at racetracks	To enhance the integrity of racing and safety of pari-mutuel racing
SGC-35-20-00010-P	09/02/21	Log of drugs administered by Thoroughbred horse trainers	To enhance the integrity and safety of thoroughbred horse racing
SGC-35-20-00011-P	09/02/21	Pick-six jackpot wager for harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-35-20-00012-P	09/02/21	Restrictions on wagering by key employees of casino vendors	To maintain the integrity of the gaming facilities
SGC-35-20-00014-P	09/02/21	Amend the out-of-competition testing rule for thoroughbred racing	To enhance the integrity and safety of thoroughbred horse racing
SGC-40-20-00001-P	10/07/21	To expressly permit veterinary technicians to practice in horse racing	To preserve the safety and integrity of pari-mutuel racing while generating reasonable revenue for the support of government
SGC-44-20-00012-P	11/04/21	Allowing licensed lottery courier services to purchase and deliver lottery tickets to customers	To facilitate the sale of lottery tickets to generate additional revenue for education
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
*HLT-36-19-00006-P	02/01/21	Limits on Executive Compensation	Removes "Soft Cap" prohibition on covered executive salaries.
*HLT-40-19-00004-P	02/01/21	Drug Take Back	To implement the State's drug take back program to provide for the safe disposal of drugs
*HLT-46-19-00003-P	02/01/21	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
*HLT-47-19-00008-P	02/01/21	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
HLT-51-19-00001-P	02/01/21	Women, Infants and Children (WIC) Program	To support implementation of eWIC; clarify rules for violations, penalties & hearings & conform vendor authorization criteria.
HLT-53-19-00001-P	01/02/21	Prohibition on the Sale of Electronic Liquids with Characterizing Flavors	To prohibit the sale of electronic liquids with characterizing flavors
HLT-53-19-00012-P	02/01/21	Consumer Directed Personal Assistance Program Reimbursement	To establish a program to pay home care services & establish a methodology framework for the payment of FI administrative costs.
HLT-04-20-00002-P	02/01/21	Reducing Annual Tuberculosis Testing of Health Care Workers	To replace annual tuberculosis testing of health care workers.

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-04-20-00003-P	02/01/21	Applied Behavior Analysis	To include Applied Behavior Analysis in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
HLT-04-20-00011-P	02/01/21	Nursing Home Case Mix Rationalization	To authorize the Department of Health to change the case mix acuity process for all nursing homes.
HLT-11-20-00003-P	03/18/21	Adult Day Health Care (ADHC)	To allow for reimbursement of real property leases in certain situations when used for operations of an ADHC program
HLT-27-20-00006-P	07/08/21	Medicaid Managed Care State Fair Hearings and External Appeals Processes and Standards	To address & clarify rules of procedure & presentation of evidence for Medicaid managed care fair hearings & external appeals
HLT-28-20-00019-P	07/15/21	Personal Care Services (PCS) and Consumer Directed Personal Assistance Program (CDPAP)	To implement a revised assessment process and eligibility criteria for PCS and CDPAP
HLT-31-20-00012-EP	exempt	Hospital Non-comparable Ambulance Acute Rate Add-on	Prevents duplicate claiming by Article 28 hospitals for the ambulance add-on regarding participation in the program
HLT-38-20-00006-P	09/23/21	Medicaid Transportation Program	Medicaid payment standards for emergency ambulance providers participating in an Emergency Triage, Treat & Transport (ET3) model
HLT-38-20-00008-EP	09/23/21	Revise Requirements for Collection of Blood Components	To facilitate the availability of human blood components while maintaining safety
HLT-39-20-00003-EP	09/30/21	Reduce Hospital Capital Rate Add-on and Reduce Hospital Capital Reconciliation Payment	To include a 5 percent reduction to the budgeted and actual capital add-on in Article 28 hospital inpatient reimbursement rates
HLT-40-20-00002-EP	10/07/21	Hospital Indigent Care Pool Payment Methodology	To develop an indigent care distribution methodology for calendar years through 2022
HLT-45-20-00002-P	11/10/21	Cannabinoid Hemp	To create a licensing framework for cannabinoid hemp processors and cannabinoid hemp retailers

HOUSING AND COMMUNITY RENEWAL, DIVISION OF

*HCR-21-19-00019-P	02/01/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits.
HCR-26-20-00012-EP	09/09/21	Schedule of Reasonable Costs for Major Capital Improvements in rent regulated housing accommodations	Provide a schedule of reasonable costs for Major Capital Improvements in rent regulated housing accommodations

HOUSING FINANCE AGENCY

*HFA-21-19-00020-P	02/01/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE			
JPE-28-20-00031-RP	07/15/21	Source of funding reporting	Clarifying amendments to Source of Funding reporting
JPE-28-20-00032-RP	07/15/21	Amendments to the lobbying regulations	To clarify the lobbying regulations that implement the provisions of the Lobbying Act
LABOR, DEPARTMENT OF			
*LAB-46-19-00004-P	02/01/21	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards
LAKE GEORGE PARK COMMISSION			
LGP-29-20-00006-P	09/22/21	Amendment of Stormwater Regulations within the Lake George Park	To more adequately control and minimize the pollutants found in stormwater runoff from going into Lake George
LGP-43-20-00005-P	01/12/22	Stream corridor protection regulations for the Lake George Park	To establish permit requirements and standards for the protection of stream corridors in the Lake George Park
LAW, DEPARTMENT OF			
LAW-18-20-00002-P	05/06/21	Designation of a Privacy Officer	Removal of a named Privacy Officer., along with their contact information
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.
LPA-09-20-00010-P	exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
LPA-28-20-00033-EP	..... exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
LPA-37-20-00008-P	..... exempt	The Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	To update the Tariff to implement the Authority's annual budget and corresponding rate adjustments
LPA-37-20-00009-P	..... exempt	Consolidated billing for community distributed generation	To modify the Tariff to offer consolidated billing options for community distributed generation consistent with the NY PSC
LPA-37-20-00010-P	..... exempt	To modify the RDM and DSA to address the unforeseen impact of COVID-19	To modify the Tariff to mitigate high bill impacts and allow for additional expense recovery related to a state of emergency
LPA-37-20-00011-P	..... exempt	New optional TOU rates as proposed in PSEG Long Island's 2018 Utility 2.0 Filing and subsequent filing updates	To incorporate best practices in TOU rate design, reduce peak load, and offer customers new rate options
LPA-37-20-00012-P	..... exempt	The Authority's implementation of PSL § 66-p in the Tariff for Electric Service	To update the Tariff to provide access to historical electric charges billed to a rental property
LPA-37-20-00013-EP	..... exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers

LONG ISLAND RAILROAD COMPANY

LIR-39-20-00005-ERP 09/30/21	Requiring wearing masks over the nose and mouth when using terminals, stations, and trains operated by Long Island Rail Road	To safeguard the public health and safety on terminals, stations and trains operated by Long Island Rail Road
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MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY

MBA-39-20-00007-EP 09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by the MAbSTOA	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
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MENTAL HEALTH, OFFICE OF

*OMH-47-19-00001-P 11/19/20	Limits on Executive Compensation	To eliminate "soft cap" restrictions on compensation.
OMH-42-20-00011-EP	..... 10/21/21	Comprehensive Psychiatric Emergency Programs	To provide clarify and provide uniformity relating to CPEPs and to implement Chapter 58 of the Laws of 2020

METRO-NORTH COMMUTER RAILROAD

MCR-39-20-00004-EP 09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations, and trains operated by Metro-North Railroad	To safeguard the public health and safety by amending the rules to require use of masks when using Metro-North facilities
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
METROPOLITAN TRANSPORTATION AGENCY			
MTA-39-20-00009-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using the facilities and conveyances operated by MTA Bus Company	To safeguard the public health and safety by amending rules to require use of masks when using MTA Bus facilities and conveyance
NEW YORK CITY TRANSIT AUTHORITY			
NTA-39-20-00006-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by NYC Transit Authority	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NIAGARA FRONTIER TRANSPORTATION AUTHORITY			
NFT-39-20-00023-P	09/30/21	Procurement Guidelines of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc	To amend procurement guidelines to reflect changes in law and clarifying language
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
*OBA-07-19-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF			
PKR-29-20-00001-P	07/22/21	Listing of state parks, parkways, recreation facilities and historic sites (facilities). New York City Region	To update the listing of state parks, parkways, recreation facilities and historic sites in the New York City Region
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
PDD-37-20-00004-EP	09/16/21	Day Habilitation Duration	to help providers maintain capacity to operate during the public health emergency
PDD-42-20-00001-P	10/21/21	Crisis Intervention Services for individuals with intellectual/developmental disabilities	Specifies qualifications for providers for the provision of these services and allowance for billing
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
POWER AUTHORITY OF THE STATE OF NEW YORK			
PAS-41-20-00009-P	..... exempt	Rates for the Sale of Power and Energy	To align rates and costs
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts receivable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts receivable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p.
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas meter for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report.	To consider NFGD's petition for rehearing.
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills.	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing.	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-50-17-00019-P	..... exempt	Transfer of utility property.	To consider the transfer of utility property.
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
*PSC-01-19-00004-P	..... exempt	Advanced Metering Infrastructure.	To determine whether Niagara Mohawk Power Corporation d/b/a National Grid should implement advanced metering infrastructure.
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
*PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.
*PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
*PSC-19-19-00014-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 124 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 124 MW electric generating facility.
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
*PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-34-19-00015-P	..... exempt	Major electric rate filing.	To consider a proposed increase in RG&E's electric delivery revenues of approximately \$31.7 million (or 4.1% in total revenues).
*PSC-34-19-00016-P	..... exempt	Major gas rate filing.	To consider a proposed increase in RG&E's gas delivery revenues of approximately \$5.8 million (or 1.4% in total revenues).
*PSC-34-19-00018-P	..... exempt	Major electric rate filing.	To consider a proposed increase in NYSEG's electric delivery revenues of approximately \$156.7 million (10.4% in total revenues).
*PSC-34-19-00020-P	..... exempt	Major gas rate filing.	To consider a proposed increase in NYSEG's gas delivery revenues of approximately \$6.3 million (or 1.4% in total revenues).

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges.	To provide qualifying residential customers with an optional three-part rate.
*PSC-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-45-19-00012-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York.	To promote and maintain renewable electric energy resources.
*PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
PSC-48-19-00007-P	..... exempt	Extension of the State Universal Service Fund.	To continue to provide universal service at a reasonable rate in certain service territories.
PSC-50-19-00004-P	..... exempt	Petition to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-52-19-00001-P	..... exempt	SUEZ Water New York Inc.'s acquisition of 100% of Heritage Hills Water Works Corporation's assets.	To determine if the proposed acquisition is in the public interest.
PSC-52-19-00006-P	..... exempt	Authorization to defer pension settlement losses.	To address the ratemaking related to the pension settlement losses.
PSC-03-20-00009-P	..... exempt	Changes to the Utility Energy Registry	To determine appropriate rules for data availability
PSC-04-20-00014-P	..... exempt	Transfer of the Indian Point site, nuclear waste, and decommissioning and site restoration funds from Entergy to Holtec.	To protect the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-06-20-00016-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-07-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-09-20-00002-P	..... exempt	Request for waiver of 16 NYCRR 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy.	To consider modifications to certain conditions regarding utility low-income discount programs.
PSC-10-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Family Energy, Inc. should be granted a waiver to offer two "green gas" products to mass market customers.
PSC-11-20-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-20-00008-P	..... exempt	Revisions to the proration tariff language.	To consider revisions to the proration tariff language under Leaf 18.1, 18 61 to 64 and Leaf 69.
PSC-11-20-00011-P	..... exempt	Application of the Public Service Law to owners of a proposed 345 kilovolt (kV) transmission line providing wholesale services.	To determine whether to apply a lightened regulatory regime to the owners of a proposed 345 kV transmission line.
PSC-12-20-00008-P	..... exempt	Delivery rates of Corning Natural Gas Corporation.	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020.
PSC-12-20-00010-P	..... exempt	Direct Energy, LLC's Green Gas Products.	To consider whether Direct Energy, LLC should be allowed to offer two Green Gas Products to mass market customers.
PSC-13-20-00006-P	..... exempt	Utility capital expenditure proposal.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators.	To provide clarity and uniformity to the provision of gas service to electric generators.
PSC-15-20-00013-P	..... exempt	Ownership of New York American Water Company, Inc.	To consider whether a proposed transfer of ownership of New York American Water Company, Inc. is in the public interest.
PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund.	To determine how much of a state sales tax refund should be retained by Central Hudson.
PSC-17-20-00008-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Alpha Gas & Electric, LLC should be permitted to offer its Green Gas Program to mass market customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-18-20-00012-P	..... exempt	The purchase price of electric energy and capacity from customers with qualifying on-site generation facilities.	To revise the price to be paid by the Company under Service Classification No. 10. for qualifying purchases of unforced capacity
PSC-18-20-00015-P	..... exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program.	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program.
PSC-19-20-00004-P	..... exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements.
PSC-19-20-00005-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To provide cost recovery for new DLM programs and prevent double compensation to participating customers.
PSC-19-20-00009-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity.
PSC-21-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Kiwi Energy NY LLC should be permitted to offer its Green Gas Products to mass market customers.
PSC-21-20-00008-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-21-20-00011-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether IGS Energy should be allowed to offer a Carbon-Neutral Gas Product and a Home Warranty Service Product.
PSC-23-20-00006-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether IDT Energy, Inc. and Residents Energy, LLC should be permitted to offer Green Gas Products in New York.
PSC-23-20-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether American Power & Gas LLC should be permitted to offer its Green Gas Products to mass market customers.
PSC-23-20-00008-P	..... exempt	Disposition of sales tax refund and other related matters.	To consider the appropriate allocation of the sales tax refund proceeds while balancing ratepayer and shareholder interests.
PSC-23-20-00010-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether AmeriChoice Energy should be permitted to offer its Green Gas Products to mass market customers.
PSC-24-20-00016-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the NRG Retail Companies should be permitted to offer Green Gas Products in New York.
PSC-24-20-00018-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Atlantic Energy, LLC should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-24-20-00020-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether CenStar Energy, Major Energy Services, and Spark Energy Gas should be permitted to offer Green Gas Products.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-25-20-00009-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements.	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.
PSC-25-20-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-25-20-00012-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-25-20-00014-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether South Bay Energy Corp. should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-25-20-00015-P	..... exempt	Staff whitepaper on a Data Access Framework.	To standardize the necessary privacy and cybersecurity requirements for access to energy-related data.
PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program.	To address the economic impacts of the COVID-19 pandemic.
PSC-25-20-00017-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Marathon Energy should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-25-20-00018-P	..... exempt	Staff's whitepaper proposing an IEDR.	To collect and integrate a large and diverse set of energy-related information and data on one statewide platform.
PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent.	To encourage consumer protections and safe and adequate service.
PSC-28-20-00020-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00025-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-28-20-00027-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioners should be permitted to offer Green Gas Products to mass market customers in New York.
PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
PSC-29-20-00008-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
PSC-29-20-00011-P	..... exempt	Petition for waiver of the requirements of Opinion No. 76-17 and 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of Opportunities for Broome, Inc for waiver of Opinion No. 76-17 and 16 NYCRR Part 96.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-30-20-00006-P	..... exempt	Petition to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-31-20-00003-P	..... exempt	Authority to issue and sell promissory notes.	To consider the petition of National Fuel Gas Distribution Corporation to issue up to \$300 million in promissory notes.
PSC-31-20-00004-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00007-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-31-20-00008-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Kiwi Energy NY LLC should be permitted to offer its Kiwi Guard product to mass market customers in New York.
PSC-31-20-00010-P	..... exempt	Submetering of electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-31-20-00011-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-32-20-00009-P	..... exempt	Transfer of street light facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-32-20-00010-P	..... exempt	Procurement of Tier 1 RECs.	Management of renewable energy procurements to meet state goals and benefit ratepayers.
PSC-32-20-00012-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-32-20-00013-P	..... exempt	Authorization for RED-Rochester, LLC to incur indebtedness of up to \$200 million.	To ensure that the proposed debt financing is within the public interest.
PSC-32-20-00014-P	..... exempt	The term for retention of a monetary crediting methodology.	To provide sufficient revenues to support financing, realize promised benefits from the project, and repay necessary re-work.
PSC-32-20-00015-P	..... exempt	Petition for waiver of the requirements of 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of St. Paul's Center to master meter and for waiver of 16 NYCRR Part 96.
PSC-32-20-00016-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-32-20-00017-P	..... exempt	Transfer of street light facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-33-20-00003-P	..... exempt	Transfer of street lighting facilities	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction
PSC-33-20-00004-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street of lighting facilities and the proper accounting for the transaction.
PSC-34-20-00004-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers.	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory.
PSC-34-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-34-20-00007-P	..... exempt	Transfer of street light facilities.	To consider the transfer of street lighting facilities to the Town of Bethel.
PSC-35-20-00015-P	..... exempt	Request for waiver of 16 NYCRR 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-35-20-00016-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-35-20-00017-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer green gas products to mass market customers in New York.
PSC-36-20-00004-P	..... exempt	Transfer of street lighting facilities.	To consider whether the transfer of street lighting facilities is in the public interest.
PSC-36-20-00005-P	..... exempt	The petition relates to the proposed transfer of membership interests in companies providing gas transportation services.	To consider the requested transfer and, if approved, what regulatory conditions should apply.
PSC-36-20-00006-P	..... exempt	A debt financing arrangement with respect to a proposed 345 kilovolt (kV) transmission line providing wholesale services.	To consider the requested financing arrangement, and if approved, what regulatory conditions should apply.
PSC-37-20-00006-P	..... exempt	Con Edison's petition for a proposed Non-Pipeline Solutions portfolio and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-37-20-00014-EP	..... exempt	Postponement of delivery rate, System Improvement Charge (SIC) and RAC/PTR surcharge with make whole starting on April 1, 2021.	To assist customers in a time of hardship by delaying a rate increase and SIC increase and RAC/PTR surcharge implementation.
PSC-38-20-00003-P	..... exempt	Minor Rate Filing	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-39-20-00014-P	..... exempt	Tariff filing.	To determine if New York State Electric & Gas Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00015-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-39-20-00016-P	..... exempt	Tariff filing.	To determine if Central Hudson Gas & Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00017-P	..... exempt	Tariff filing.	To determine if National Grid's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00018-P	..... exempt	Tariff filing.	To determine if Rochester Gas and Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00019-P	..... exempt	Tariff filing.	To determine if Orange and Rockland Utilities, Inc.'s tariff filing is consistent with the law and in the public interest.
PSC-39-20-00020-P	..... exempt	Tariff filing.	To determine if Consolidated Edison Company of New York's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00021-P	..... exempt	Authority to issue to long-term debt.	To consider Conring's request for authority to issue long-term debt.
PSC-39-20-00022-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-40-20-00003-P	..... exempt	NYSEG's petition for a proposed Non-Pipeline Alternatives portfolio of projects and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-40-20-00004-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-40-20-00005-P	..... exempt	Electric Generation Facility Cessation Mitigation Program Funding	To develop a funding mechanism for the Electric Generation Facility Cessation Mitigation Program.
PSC-40-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-40-20-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioner should be permitted to offer green gas and home warranty products to mass market customers.
PSC-40-20-00008-P	..... exempt	A benefit for electric utility customers in communities that host a major renewable energy facility.	To consider a just and reasonable benefit for electric utility customers in renewable host communities.
PSC-40-20-00009-P	..... exempt	Amendments clarifying the sharing of revenue from the Energy Storage Program.	To ensure that Con Edison's tariff is clear regarding sharing of revenue when annual wholesale revenues exceed contract costs.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-40-20-00010-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether the petitioner should be permitted to offer green gas and home warranty products to mass market customers.
PSC-41-20-00010-P	..... exempt	Disposition of a \$50 million municipal tax refund	To consider a disposition of a municipal tax refund for customer and company benefit
PSC-41-20-00011-P	..... exempt	Major gas rate filing.	To consider a proposed increase in Conring's gas delivery revenues of approximately \$6.3 million (23.4% in total revenues).
PSC-41-20-00012-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-41-20-00013-P	..... exempt	The proposed transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-42-20-00006-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$41.8 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-20-00007-P	..... exempt	Transfer of ownership interests and facilities associated with three nuclear generating units, funds, and storage facilities.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfer to serve the public interest.
PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations.
PSC-42-20-00009-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$100.4 million (or 3.2% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-20-00003-P	..... exempt	The use of \$50 million to support residential and commercial customers experiencing financial hardship	To consider whether the proposed support of ratepayers is in the public interest
PSC-44-20-00004-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-44-20-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-20-00006-P	..... exempt	Transfer of property interests in the Union Falls Hydroelectric Facility.	To determine whether to authorize the transfer of the Union Falls Hydroelectric Facility and the proper accounting treatment.
PSC-44-20-00007-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 90.5 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 90.5 MW electric generating facility.
PSC-44-20-00008-P	..... exempt	Lease of right-of-way and transfer of facilities.	To determine whether to authorize lease of right-of-way, transfer of facilities and the proper accounting treatment.
PSC-44-20-00009-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-44-20-00010-P	..... exempt	Transfer of natural gas pipeline facilities and ownership interests in those facilities, and an applicable regulatory regime.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfers and the facility owners.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-45-20-00004-P	..... exempt	Major gas rate filing	To consider an increase in Central Hudson's gas delivery revenues
PSC-45-20-00005-P	..... exempt	Major electric rate filing	To consider an increase in Central Hudson's electric delivery revenues
PSC-45-20-00006-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-46-20-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-46-20-00005-P	..... exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service.	To determine if approving the DPS Staff's recommendations is in the public interest.
PSC-46-20-00006-P	..... exempt	Amendments to the SIR.	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.
PSC-46-20-00007-P	..... exempt	Compliance of New York Transco LLC with the applicable portions of the Electric Safety Standards.	To consider the petition of New York Transco LLC for clarification of its responsibilities under the Electric Safety Standards.
PSC-46-20-00008-P	..... exempt	Compliance report by electric utilities on developing distribution and local transmission in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the the State's climate goals.
PSC-46-20-00009-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-47-20-00006-P	..... exempt	Notice of intent to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-47-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00004-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers.
PSC-48-20-00006-P	..... exempt	PSC regulations 16 NYCRR 86.3(a)(2); 86.3(a)(2)(iv) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-48-20-00007-P	..... exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-48-20-00008-P	..... exempt	Proposed modifications to Rider T - Commercial Demand Response Program.	To consider revisions to Rider T - CDRP for the 2021 Capability Period.
PSC-48-20-00009-P	..... 12/02/21	Siting of major transmission facilities in new or existing rights of way that qualify for expedited process.	To establish expedited requirements for the siting, construction and operation of major transmission facilities.
STATE, DEPARTMENT OF			
DOS-37-20-00015-P	..... 09/16/21	Siting of major renewable energy facilities	To establish procedural requirements for permits for siting, construction and operation of major renewable energy facilities
DOS-37-20-00016-P	..... 11/29/21	Siting permits for major renewable energy facilities	To establish uniform standards and conditions for siting, design, construction & operation of major renewable energy facilities
DOS-41-20-00001-P	..... 10/14/21	Public Playground Safety	Update public playground safety standards
DOS-48-20-00010-P	..... 12/02/21	Procedures and requirements related to the filing of certificates by the Department of State's Division of Corporations	To clarify and update procedures related to the filing of certificates with the Division of Corporations
STATE UNIVERSITY OF NEW YORK			
SUN-53-19-00005-P	..... 02/01/21	Proposed amendments to the traffic and parking regulations at State University Agricultural and Technical College at Morrisville	Amend existing regulations to update traffic and parking regulations
SUN-29-20-00004-EP	..... 07/22/21	State basic financial assistance for the operating expenses of community colleges under the program of SUNY and CUNY	To modify limitations formula for basic State financial assistance and remove an operating support "floor"
SUN-29-20-00005-EP	..... 07/22/21	Student Assembly Elections, Student Assembly Officers, Campus Government Elections, Student Activity Fees	To postpone voting on student activity fees and elections of Student Assembly representatives and officers until Fall 2020
SUN-37-20-00002-EP	..... 09/16/21	Appointment of Employees; Eligibility	To allow for the addition of one year to the service limits for current faculty to attain continuing appointment
STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY			
SIR-39-20-00008-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations and trains operated by SIRTOA.	To safeguard the public health and safety by amending rules to require the use of masks when using terminals and stations.
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-02-20-00001-EP	..... 02/01/21	Property tax levy limits for school districts in relation to certain costs resulting from capital local expenditures	To implement Education Law 2023-a relating to certain costs resulting from capital local expenditures of school districts
TAF-38-20-00005-P	..... 09/23/21	New York State and City of Yonkers withholding tables and other methods	To provide current New York State and City of Yonkers withholding tables and other methods
TAF-46-20-00003-P	..... exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-16-20-00012-P	04/22/21	New York State Combined Application Project (NYSCAP)	To implement the NYSCAP, a new combined application project for recipients of Supplemental Security Income benefits, who have been designated as Live-Alone by the Social Security Administration and the State-funded SSI State Supplement Program
TDA-26-20-00007-P	07/01/21	Supplemental Security Income (SSI) Additional State Payments	To clarify who participates, the intended uses for benefits, that benefits won't be issued once a death is verified, time frames to report and circumstances when underpayment/retroactive benefits will issue, and NYS operates SSP under State rules
TDA-39-20-00024-EP	09/30/21	Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)	These regulatory amendments set forth the federally-approved SUAs as of 10/1/20
TDA-46-20-00002-P	11/18/21	Payment access cards	To update State regulations pertaining to payment access cards to align with Part V of Chapter 56 of the Laws of 2020
THRUWAY AUTHORITY, NEW YORK STATE			
THR-01-20-00003-P	02/01/21	Toll rate adjustments on the New York State Thruway system.	To provide for toll rate adjustments necessary to support the Authority's financial obligations.
THR-42-20-00013-P	10/21/21	Amend the Authority's rules in relation to Grand Island Bridges sidewalks and Governor Mario M Cuomo Bridge Shared Use Path	To regulate certain activities on the Grand Island Bridges sidewalks and Governor Mario M Cuomo Bridge Shared Use Path
WORKERS' COMPENSATION BOARD			
WCB-23-20-00004-P	06/10/21	EDI system updates	To require carriers to report certain credits taken for payments to claimants; biannual reports; EDI 3.1 updates
WCB-28-20-00003-EP	07/15/21	Adding COVID-19 diagnosis by a health care provider as a serious health condition for purposes of Paid Family Leave	To clarify that employees may take PFL to care for a family member with COVID-19
WCB-42-20-00004-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00005-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00010-P	10/21/21	Requesting prior approval for medical treatment and care	To implement an internet portal-based submission and review process
WCB-42-20-00012-P	10/21/21	DME Fee Schedule	To replace DME fee schedule, update fees; create prior authorization process
WCB-48-20-00002-EP	12/02/21	Reimbursement for COVID-19 testing	To allow reimbursement for COVID-19 testing when benefits are sought due to workplace exposure to COVID-19

GUIDANCE DOCUMENTS

Not less than once each year, every agency shall submit to the Secretary of State for publication in the *State Register* a list of all Guidance Documents on which the agency currently relies [SAPA, section 202-e(1)]. However, an agency may be exempted from compliance with the requirements of SAPA section 202-e(1) if the agency has published on its website the full text of all Guidance Documents on which it currently relies [SAPA, section 202-e(2)].

Public Service Commission

The Public Service Commission has published the full text of all guidance documents on which said agency currently relies on at the following website: <http://www.dps.ny.gov>

SECURITIES OFFERINGS

STATE NOTICES

Published pursuant to provisions of General Business Law
[Art. 23-A, § 359-e(2)]

DEALERS; BROKERS

AG Essential Housing Company 1, L.P.
c/o Angelo, Gordon & Co., LP, 245 Park Ave., New York, NY 10167
Partnership — AG Essential Housing GP LLC

AG SF International (L), Ltd.
c/o Angelo, Gordon & Co., LP, 245 Park Ave., New York, NY 10167
Partnership — AG Super LLC

AG SF International Partners (L), L.P.
c/o Angelo, Gordon & Co., LP, 245 Park Ave., New York, NY 10167
Partnership — AG Super LLC

AG SF (L), L.P.
c/o Angelo, Gordon & Co., LP, 245 Park Ave., New York, NY 10167
Partnership — AG Super LLC

Ascend Capital Partners Co-invest, L.P.
Two Park Ave., Suite 2060, New York, NY 10016
Partnership — Ascend Capital Partners Fund I GP, L.P.

Ascend Capital Partners Co-invest (Blocker), L.P.
Two Park Ave., Suite 2060, New York, NY 10016
Partnership — Ascend Capital Partners Fund I GP, L.P.

Ascend Capital Partners Fund I, L.P.
Two Park Ave., Suite 2060, New York, NY 10016
Partnership — Ascend Capital Partners Fund I GP, L.P.

Ascend Capital Partners Fund I-A, L.P.
Two Park Ave., Suite 2060, New York, NY 10016
Partnership — Ascend Capital Partners Fund I GP, L.P.

BBH Capital Partners VI, LP
140 Broadway, New York, NY 10005
Partnership — BBH Private Capital Management VI, LLC

CapVest Strategic Opportunities 2 SCSp
Eight rue Lou Hemmer, 1-1748, Senningerberg, Grand Duchy of Luxembourg

CIVC Partners Fund VI, L.P.
191 N. Wacker Dr., Suite 1100, Chicago, IL 60606
Partnership — CIVC GP VI, L.P.

CIVC Partners Fund VI-A, L.P.
191 N. Wacker Dr., Suite 1100, Chicago, IL 60606
Partnership — CIVC GP VI, L.P.

Concentrates III, a series of Bengal Capital Ventures LP
2100 Banche Rd., Manhattan Beach, CA 90266
Partnership — Marine Layer Capital LLC

Dalmore Group LLC, The
525 Green Place, Woodmere, NY 11598
State or country in which incorporated — New York

Forward Management, LLC
244 California St., Suite 200, San Francisco, CA 94111
State or country in which incorporated — Delaware

GSB2021 LLC
510 Broadhollow Rd., Suite 305, Melville, NY 11747

Ikanos Partners LP
20 W. 55th St., 8th Fl., New York, NY 10019
Partnership — Kynikos Associates LP

Initiative Delta IV L.P.
c/o Walkers Corporate Limited, Cayman Corporate Centre, 27 Hospital Rd., George Town, Grand Cayman KY1-9008, Cayman Islands
Partnership — Initiative Partners Delta IV Ltd.

Live Oak Houston LLC
2050 S 620 W, LEHI, UT 84043
State or country in which incorporated — Texas

Lokoya Capital Partners Fund LP
2193 Fillmore St., San Francisco, CA 94115
Partnership — Lokoya Capital Advisors LLC

LRW Opportunity Fund, L.P.
c/o LRW Group, LLC, 14 Wall St., Suite 1600, New York, NY 10005
State or country in which incorporated — Delaware limited partnership

Luminate Capital Partners III, LP
One Letterman Dr., Suite CM 500, San Francisco, CA 94129
Partnership — Luminate Capital Partners GP III, LP

Luminate Capital Partners III-A, LP
One Letterman Dr., Suite CM 500, San Francisco, CA 94129
Partnership — Luminate Capital Partners GP III, LP

NatAlliance Securities LLC
111 Congress Ave., Suite 800, Austin, TX 78701
State or country in which incorporated — Delaware

New Song Healthcare LP
Two Park Ave., Suite 2060, New York, NY 10016
Partnership — Ascend Capital Partners UGP, LLC

One River Asset Management, LLC
Three River Rd., 2nd Fl., Greenwich, CT 06807
State or country in which incorporated — Delaware

Pinnacle Bankshares Corporation
622 Broad St., Altavista, VA 24517
State or country in which incorporated — Virginia

Quilvest Real Estate Opportunities (US) LP
527 Madison Ave., 11th Fl., New York, NY 10022
Partnership — QREOGP LLC

Replika Software LLC
11 Northwood Court, Woodbury, NY 11797
State or country in which incorporated — Delaware limited liability company

Skyway Capital Markets LLC
100 N. Tampa St., Suite 3550, Tampa, FL 33602
State or country in which incorporated — Florida

Trinity Capital Value Fund IV LP
440 S. Church St., Suite 800, Charlotte, NC 28202

URS CCP OZ II LLC
P.O. Box 5487, Hauppauge, NY 11778

Virtuix Holdings Inc.
1826 Kramer Lane, Suite H, Austin, TX 78758

Yungasi, Inc. USA
54 Scarboro Ave., Staten Island, NY 10305

Zip Run, Inc.
160 Orlando St., Mattapan, MA 02126
State or country in which incorporated — Massachusetts

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

REPLACE ROOF

Downstate Correctional Facility
Fishkill, Dutchess County

Sealed bids for Project Nos. M3116-C, M3116-H, M3116-P, and M3116-E, comprising separate contracts for Construction Work, HVAC Work, Plumbing Work, and Electrical Work, Replace Roof, Buildings 1C, 1D, 1E, & 1F, Downstate Correctional Facility, 121 Red Schoolhouse Rd, Fishkill (Dutchess County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Correctional Services, until 2:00 p.m. on Wednesday, December 16, 2020 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$31,900 for C, \$3,100 for H, \$1,400 for P, and \$10,100 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$500,000 and \$1,000,000 for C, between \$25,000 and \$50,000 for H, between \$0 and \$25,000 for P, and between \$100,000 and \$250,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 300 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or af-

ter January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

X Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work. The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj*, Deputy Director
OGS - Design & Construction Group

DEMOLISH
BUILDINGS 32, 33, 26 and 52
Mohawk Valley Psychiatric Center
Utica, Oneida County

Sealed bids for Project No. Q1787-C, comprising of a contract for Construction Work, Demolish Buildings 32, 33, 26 & 52, Mohawk Valley Psychiatric Center, 1400 Noyes St, Utica (Oneida County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, December 9, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$37,400 for C).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$500,000 and \$1,000,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 267 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

 X Project commenced design before January 1, 2020. Not subject to provision.

 Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby

establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By John D. Lewyckyj, Deputy Director
 OGS - Design & Construction Group

PROVIDE
CIVILIAN PERSONAL ALARM SYSTEM
Sullivan Correctional Facility
Fallsburg, Sullivan County

Sealed bids for Project No. 45853-E, comprising of a contract for Electrical Work, Provide Civilian Personal Alarm System, Sullivan Correctional Facility, 325 Riverside Dr, Fallsburg (Sullivan County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Corrections and Community Supervision, until 2:00 p.m. on Wednesday, December 16, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$78,800 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$2,000,000 and \$3,000,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes.

Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 737 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

☒ Project commenced design before January 1, 2020. Not subject to provision.

☐ Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj*, Deputy Director
OGS - Design & Construction Group

REHABILITATE MAIN ENTRY

Mary Brooks Transitional Living Residence
Brooklyn, Kings County

Sealed bids for Project No. 45947-C, comprising a contract for Construction Work, Rehabilitate Main Entry, Building 34, Mary

Brooks Transitional Living Residence, 681 Clarkson Ave, Building 19, Brooklyn (Kings County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, December 9, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$22,700 for C).

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$250,000 and \$500,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 247 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

☒ Project commenced design before January 1, 2020. Not subject to provision.

☐ Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby

establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link for ordering and payment instructions: <https://ogs.ny.gov/design-construction/construction-contractors>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group

**RENOVATE
SAFETY OFFICE**
Mohawk Valley Psychiatric Center
Utica, Oneida County

Sealed bids for Project No. 46036-C, comprising a contract for Construction Work, Safety Office Renovations, Building 64, Mohawk Valley Psychiatric Center, 1400 Noyes St, Utica, NY (Oneida County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, December 16, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$13,000 for C).

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$100,000 and \$250,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design &

Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 219 days after the Agreement is approved by the Comptroller.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

- ☒ Project commenced design before January 1, 2020. Not subject to provision.
- ☐ Project commenced design on or after January 1, 2020. Subject to provision.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group

NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

Division of Homeland Security and Emergency Services

1220 Washington Ave.
State Campus, Bldg. 7A
Albany, NY 12242

UNITS OF LOCAL GOVERNMENTS WITHIN TARGETED COUNTIES

FY 2019 Critical Infrastructure Grant Program

Fiscal Year 2019 Critical Infrastructure Grant Program seeks applications for up to \$50,000 from federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES) for critical infrastructure protection. The FY 2019 Critical Infrastructure Grant Program (CIGP) advances a common understanding of risk management. Applicants select a government owned critical infrastructure, mass gathering/ special event site and complete a risk assessment. First responders assess their capability to prevent and protect against attacks on the site. Grant funding is then applied to mitigate vulnerabilities identified in the risk assessment or enhance first responder's capabilities.

The priority focus for the FY 2019 CIGP is government owned critical infrastructure, mass gathering/ special event sites. Examples of critical infrastructure sites include, but are not limited to, government office buildings (city/town halls), emergency services (emergency operations centers, 911 centers, police or fire stations), water systems (water treatment facilities, water distribution, wastewater treatments) or government owned stadiums. Examples of mass gathering sites include, government property, where events such as, but not limited to, major community festivals, races, concerts or games are held. These events must be reoccurring (but not necessarily the same event) and located or held on government owned or leased property that has definable geographic boundaries; the event or location must pose special security concerns, such a population surges and other factors that require additional law enforcement or emergency resources.

Only units of local government within targeted counties are eligible to apply for the FY 2019 CIGP. Units of local governments include: counties, cities, towns, and/or villages. Applicants must be located in New York City or one of the following targeted counties: Albany, Broome, Dutchess, Erie, Herkimer, Livingston, Madison, Monroe, Nassau, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Tioga, Wayne, Westchester, and Yates. The application must be coordinated with at least two (2) agencies with prevention and/or protection responsibilities at the selected site. These must be law enforcement, fire department, emergency management, or public works agencies.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhses.ny.gov/grants/targeted.cfm> or contact the DHSES Grants Hotline at (866) 837-9133.

Division of Homeland Security and Emergency Services

1220 Washington Ave.
State Campus, Bldg. 7A
Albany, NY 12242

ALL NEW YORK STATE COUNTIES AS WELL AS UNITS OF LOCAL GOVERNMENT TO INCLUDE CITIES, TOWNS, AND/OR VILLAGES THAT ARE REGISTERED MEMBERS OF THE MULTI-STATE INFORMATION SHARING AND ANALYSIS CENTER

FY 2019 Cyber Security Grant Program

Fiscal Year 2019 Cyber Security Grant Program (CSGP) seeks applications for up to \$50,000 from federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES). The purpose of this grant opportunity is to aid New York State's local jurisdictions in enhancing their ability to protect, identify, respond to and recover from cyber incidents through funding of eligible planning, equipment, training and exercise costs.

The five objectives of this grant are to: 1) To provide New York State local jurisdictions with the resources and equipment necessary to prevent disruption of the confidentiality, integrity and availability of their information systems; 2) To assess cyber security risks, identify vulnerabilities and determine capability gaps with the focus of allocating resources to address the most critical needs; 3) To ensure that local jurisdictions are equipped with the knowledge and resources necessary for providing cyber security awareness training to their staff in support of good cyber hygiene at the user level; 4) To develop actionable cyber security plans that focus on response and immediate remediation to a cyber incident, and; 5) To encourage the participation in established cyber security support networks and utilization of the vast amount of resources available to local governments.

All New York State counties as well as units of local government to include cities, towns, and/or villages that are registered members of the Multi-State Information Sharing and Analysis Center (MS-ISAC) are eligible to apply for the FY2019 CSGP.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhses.ny.gov/grants/targeted.cfm> or DHSES's Grant Hotline at (866) 837-9133.

Division of Homeland Security and Emergency Services

1220 Washington Ave.
State Campus, Bldg. 7A
Albany, NY 12242

LOCAL, COUNTY AND TRIBAL LAW ENFORCEMENT AGENCIES WITH AN ACTIVE ROAD PATROL COMPONENT OF THEIR LAW ENFORCEMENT OPERATIONS AND WHO CURRENTLY AND/OR PREVIOUSLY MANAGED A DCJS OR NYS

CERTIFIED EXPLOSIVE DETECTION CANINE TEAM WITHIN THE LAST FIVE YEARS**FY 2019 Explosive Detection Canine Team Grant Program**

Fiscal Year 2019 Explosive Detection Canine Team Grant Program seeks applications for up to \$50,000 from federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES) for programs to develop and support explosive detection canine team capabilities.

The six primary objectives of this grant are: 1.) The advancement of explosive detection canine team capabilities; 2.) The certification of explosive detection canine teams and compliance with annual recertification requirements; 3.) Participation in DHS's Office for Bombing Prevention's (DHS-OBP) Explosive Detection Canine Capability Analysis Program; 4.) Alignment to New York State's thirteen FBI Accredited bomb squads; 5.) Use of the Bomb Arson Tracking System (BATS); and, 6.) Promotion of regional partnerships in the development of mutual explosive detection canine team capabilities. Grants will be awarded to support local, county and Tribal law enforcement agencies with an active road patrol component of their law enforcement operations and who currently and/or previously managed a DCJS or NYSP certified explosive detection canine team within the last five (5) years.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhSES.ny.gov/grants/targeted.cfm> or contact DHSES's Grants Hotline at (866) 837-9133.

Division of Homeland Security and Emergency Services

1220 Washington Ave.
State Campus, Bldg. 7A
Albany, NY 12242

LOCAL, COUNTY AND TRIBAL LAW ENFORCEMENT AGENCIES WITH AN ACTIVE TACTICAL TEAM AS PART OF THEIR LAW ENFORCEMENT OPERATIONS THAT RESPONDS TO CALLS FOR SERVICE OUTSIDE OF A CORRECTIONAL SETTING AND HAVE BEEN CERTIFIED BY DCJS OR HAVE A PENDING APPLICATION FOR CERTIFICATION WITH DCJS

FY 2019 Tactical Team Grant Program

Fiscal Year 2019 Tactical Team Grant Program seeks applications for up to \$75,000 from federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES). The primary focus of this year's grant opportunity is to improve a tactical team's response capabilities through the attainment and sustainment of the SWAT Team Standards that were developed and approved by the New York State Division of Criminal Justice Services (DCJS) through the Municipal Police Training Council (MPTC).

Grants will be awarded to local, county, and tribal law enforcement agencies with an active tactical team as part of their law enforcement operations that responds to calls for service outside of a correctional setting AND have been certified by DCJS or have a pending application for certification with DCJS. The four primary objectives of this grant are to: 1) Advance tactical team capabilities through the attainment and sustainment of the minimum standards within this community; 2) Encourage and support training among law enforcement specialty teams to include bomb squads and explosive detection canine teams; 3) Promote regional partnerships in the development and build-out of mutual tactical team capabilities, and 4) Participate in DHS's Office for Bombing Prevention's (DHS-OBP) SWAT Capability Analysis Program.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES

website at <http://www.dhSES.ny.gov/grants/targeted.cfm> or contact DHSES's Grant Hotline at (866) 837-9133.

Division of Homeland Security and Emergency Services

1220 Washington Ave.
State Campus, Bldg. 7A
Albany, NY 12242

LOCAL EMERGENCY RESPONSE TEAMS THAT PROVIDE TECHNICAL RESCUE & USAR SERVICES COUNTYWIDE OR REGIONALLY

FY 2019 Technical Rescue & USAR Team Grant Program

Fiscal Year 2019 Technical Rescue & USAR Team Grant Program seeks applications for up to \$225,000 from federal State Homeland Security Program funding made available by the NYS Division of Homeland Security and Emergency Services (DHSES). The focus of this grant opportunity is to develop and support Technical Rescue & USAR team capabilities.

Grants will be awarded to counties on behalf of local emergency response teams that provide Technical Rescue & USAR services countywide or regionally. The four primary objectives of this grant are to: 1) Advance Technical Rescue & USAR capabilities statewide; 2) Develop Regional Response Partnerships to enhance multi-county response capabilities; 3) Encourage the development and maintenance of county-level Technical Rescue/USAR plans; and 4) Assess and standardize Technical Rescue and USAR Resources through participation in the DHSES Office of Fire Prevention and Control's Technical Rescue/USAR Accreditation program.

Applications will be accepted until January 6, 2021 at 5:00 p.m. through the DHSES electronic grants management system (E-Grants).

For the Request for Applications (RFA) please visit the DHSES website at <http://www.dhSES.ny.gov/grants/targeted.cfm> or contact DHSES's Grants Hotline at (866) 837-9133.

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE Department of Civil Service

Pursuant to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for December 2020 will be conducted on December 16 and December 17 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at: <https://www.cs.ny.gov/commission/>

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. One, Albany, NY 12239, (518) 473-6598

PUBLIC NOTICE Division of Criminal Justice Services New York State Juvenile Justice Advisory Group Quarterly Meeting

Pursuant to Public Officer Law 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Juvenile Justice Advisory Group:

Date: December 8, 2020

Time: 10:00am 1:00pm

Place: <https://www.youtube.com/user/nyspublicsafety>

For further information, contact: Thomas R. Andriola, Chief of Policy & Implementation, Office of Youth Justice, Division of Criminal Justice Services, 80 South Swan St., 8th Fl., Albany, NY 12210 (518) 485-1833, email: Thomas.Andriola@dcjs.ny.gov

PUBLIC NOTICE Department of State F-2020-0592

Date of Issuance – December 2, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-0592 the applicant, MB Beach LLC, is proposing to reconstruct 80 linear feet of bulkhead in-place and raised to match the neighbors; remove and reconstruct an elevated 27.2'x25' deck, a 4'x45' hinged ramp, and re-install a 44'-5" x 18' float; and reposition 14 mooring pilings to support boat lift. This project is located at the 1801 Bay Blvd, Village of Atlantic Beach, Nassau County, East Rockaway Inlet.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0592.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or January 1, 2021.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE Department of State F-2020-0687

Date of Issuance – December 2, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2020-0687 Alfred Gaeta proposes to install a gabion wall along 75 linear feet of Lake Ontario shoreline. The wall would be one row of gabion baskets high or 3 feet high. The stated purpose of the proposal is to "halt erosion".

The proposed work is for property applicant co-owns with five others at 2143 Lake Road in the Town of Porter, Niagara County.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0687ForPN.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, December 17, 2020.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2020-0799

Date of Issuance – December 2, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0799.pdf>

In F-2020-0799, or the "Village of Dexter Boat Launch", the applicant – Village of Dexter – proposes removal of the existing concrete abutment, extending the existing boat launch further up into the shore, replacement of the concrete abutment at a higher elevation to accommodate for high waters, and replace the existing floating dock and gangway with a longer floating dock and gangway. Placement of new floating boat docks for permanent use, as well as improvements to the current parking area, lighting, and signage within the area.

The purpose of the proposed project is to reconstruct the existing boat launch and surrounding areas. The project is located at 301 Water Street in the Village of Dexter, Jefferson County on the Black River.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, January 1, 2021.

Comments should be addressed to: Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2020-0802

Date of Issuance – December 2, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New

York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0802.pdf>

In F-2020-0802, or the "Goose Bay Boat Launch", the applicant – Town of Alexandria – proposes the reconstruction of the public boat ramp and provide docking for temporary tie-up. Work includes construction of new launch ramps, floating dockage for temporary vessel tie up and boarding, bulkhead reconstruction, drive area improvements, additional floating docks, dredging, associated utilities, and landscaping. Site changes will include a new boat ramp for permanent use, as well as improvements to the current parking area, lighting, and signage within the area.

The purpose of the proposed project is to make improvements to the boat launch to meet the resilient needs of the fluctuating water levels, as well as make improvements for boater safety and better parking and pedestrian access. The project is located at 48301 Goose Bay Road in the Town of Alexandria Bay, Jefferson County on the St. Lawrence River.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, January 1, 2021.

Comments should be addressed to: Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020 - 0530 In the matter of TK Storage, David Planavsky, 185 Harry L Drive, Johnson City, NY 13790 requesting a variance concerning fire safety and building code requirements, to the former Bonton retail space of the Oakdale Mall located at 601-635 Harry L. Drive, Johnson City, the County of Broome, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0531 In the matter of Carmina Wood Morris DPC, Wendy Ferrie, 487 Main Street, Suite 500, Buffalo, NY 14203, for ADHV REDEV, LLC, concerning building code and fire safety requirements to the proposed Moyer carriage lofts located at 1710 North Salina Street, City of Syracuse, the County of Onondaga, State of New York.

2020-0532 In the matter of Carmina Wood Morris DPC, Wendy

Ferrie, 487 Main Street, Suite 500, Buffalo, NY 14203, for ADHV REDEV, LLC, concerning building code and fire safety requirements to the proposed Moyer carriage lofts located at 421 Wolf Street, City of Syracuse, the County of Onondaga, State of New York.

PUBLIC NOTICE

Department of State
Office of Renewable Energy Siting
Extension of Public Comment Period

The original November 16, 2020 deadline for submission of public comment on Proposed Rule Making, "Siting of Major Renewable Energy Facilities," I.D. No. DOS-37-20-00015, has been extended until December 7, 2020, which will match the public comment deadline for Proposed Rule Making, "Siting Permits for Major Renewable Energy Facilities," I.D. No. DOS-37-20-00016-P. Comments may be submitted as indicated in these Notices of Proposed Rule Makings, which were both published on September 16, 2020. Comments may also be submitted at: www.ores.ny.gov/regulations

EXECUTIVE ORDERS

Executive Order No. 168.42: Continuing the Declaration of a Disaster Emergency in the Five Boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester That Incorporate the MTA Region in the State of New York.

WHEREAS, pursuant to Executive Order No. 168, a disaster has heretofore been declared in the five boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester that incorporate the Metropolitan Transportation Authority (MTA) Region in the State of New York due to increasingly constant and continuing failures of the tracks, signals, switches and other transportation infrastructure throughout the system including at Pennsylvania Station located in the County of New York (Penn Station), that have resulted in various subway derailments, extensive track outages, and substantial service disruptions impacting the health and safety of hundreds of thousands of riders;

WHEREAS, the ongoing failures of the tracks, signals, switches and other transportation infrastructure throughout the MTA's rail and subway system continue to pose an imminent threat and have a vast and deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the Metropolitan Commuter Transportation District (MCTD), which is the recognized economic engine of the State of New York, and thereby have adversely affected the New York State economy;

WHEREAS, the track outages and service disruption necessary to implement the Amtrak Repair Program, and other repairs necessary to fix tracks, signals, switches and other transportation infrastructure throughout the MTA's rail and subway system continue to be necessary to protect the public, health and safety of commuters, tourists, resident New Yorkers, and will continue to worsen the transportation disaster emergency that currently exists due to the condition of Penn Station and the MTA's rail and subway system as a whole; and,

WHEREAS, it continues to be necessary for the MTA and its subsidiaries and affiliates to take significant and immediate action to assist in the repair of the tracks, signals, switches and other transportation infrastructure and in the mediation of such track outages and service disruptions due to this disaster emergency;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby extend the state disaster emergency declared pursuant to Executive Order No. 168 and extend all of the terms, conditions, and directives of Executive Order No. 168 and the terms, conditions, and directives for any extensions of the same for the period from the date that the disaster emergency was declared pursuant to Executive Order No. 168 until November 30, 2020; provided that the temporary suspension of any laws, rules, regulations or guidelines pursuant to this and any future extensions of Executive Order 168 shall apply to the extent the Chairman of the MTA, or his designee, which shall only include the MTA's President or Managing Director, determines it necessary for the purposes of awarding any contracts, leases, licenses, permits or any other written agreement that may be entered into to mitigate such disaster emergency.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany the thirty-first day of October in the year two thousand twenty.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

Executive Order No. 202.71: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law contained in Executive Order 202.66 for another thirty days through November 28, 2020.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twentieth day of October in the year two thousand twenty.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

Executive Order No. 202.72: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster continues to exist for which affected state agencies and local governments are unable to respond adequately. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby continue for thirty days the declaration of the State Disaster Emergency effective March 7, 2020, as set forth in Executive Order 202. This Executive order shall remain in effect through December 3, 2020.

IN ADDITION, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive, contained in Executive Orders 202 up to and including 202.21, and 202.27, 202.28, 202.29, 202.30, 202.31, 202.38, 202.39, 202.40, 202.41, 202.42, 202.43, 202.48, 202.49, 202.50, 202.51, 202.52, 202.55, 202.55.1, 202.56, 202.60, 202.61, 202.62, 202.63, as continued and contained in Executive Orders 202.67 and 202.68 for another thirty days through December 3, 2020, except:

- Subdivision (a) of Section 301 of the Vehicle and Traffic Law, to the extent that it requires annual safety inspections and at least biennial emissions inspections, shall no longer be suspended or modified, and provided no penalty shall attach to the failure to obtain such inspection until December 1, 2020;
- Subdivision 1 of Section 491 of the Vehicle and Traffic law, to the extent that it provides for a period of validity and expiration of a non-driver identification card, shall no longer be suspended or modified;
- Sections 401, 410, 2222, 2251, 2251, and 2282(4) of the Vehicle and Traffic law, to the extent that it provides for a period of validity and expiration of a registration certificate or number plate for a motor vehicle or trailer, a motorcycle, a snowmobile, a vessel, a limited use vehicle, and an all-terrain vehicle, shall no longer be suspended or modified, but provided that no penalty shall attach to the failure to extend such registration until December 1, 2020;
- Section 420-a of the Vehicle and Traffic law, to the extent that it provides an expiration for temporary registration documents issued by auto dealers shall no longer be suspended or modified;
- Pursuant to Executive Order 202.67, the suspension for civil cases in Executive Order 202.8, as modified and extended in subsequent Executive Orders, that tolled any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding as prescribed by the procedural laws of the state, including but not limited to the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby no longer in effect as of November 4, 2020, provided any criminal procedure law suspension remains in effect and provided that all suspensions of the Family Court Act remain in effect until November 18, 2020 and thereafter continue to remain in effect for those juvenile delinquency matters not involving a detained youth and for those child neglect proceedings not involving foster care.
- To the extent Executive Order 202.61 modified subdivision 1 of section 579 of the Public Health Law to require reporting of COVID-19 and influenza test results by additional clinical laboratories within 3 hours, such modification is continued and amended to permit such laboratories to report results to the Department within 24 hours, provided the Department may require more frequent reporting if deemed necessary;

IN ADDITION, I hereby temporarily suspend or modify the following from the date of this Executive Order through December 3, 2020:

- Sections 732 and 743 of the Real Property Actions and Proceedings Law are modified to the extent necessary to provide that the time to answer in any summary eviction proceeding for nonpayment of rent that is pending on the date of the issuance of this Executive Order will be sixty days.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives through December 3, 2020:

- The directive contained in Executive Order 202.61, along with implementing guidance, requiring clinical laboratories and licensed professionals authorized by the Department of Health Physician Office Laboratory Evaluation Program to administer a test for COVID-19 or influenza to report results of COVID-19 and influenza tests to the Department within three hours, is hereby modified to permit clinical laboratories and those licensed professionals with reporting requirements to report results to the Department within 24 hours, provided the Department may require more frequent reporting if deemed necessary.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this third day of November in the year two thousand twenty.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

Executive Order No. 205.2: Quarantine Restrictions on Travelers Arriving in New York.

WHEREAS, the State of New York has successfully slowed the transmission of COVID-19;

WHEREAS, the State of New York has gone from having the highest infection rate to one of the lowest in the country and is one of only a few states reported to be on track to contain COVID-19;

WHEREAS, the Governor has undertaken a cautious, incremental and evidence-based approach to reopening the State of New York;

WHEREAS, other states that may have taken a less cautious approach are experiencing an increased prevalence of COVID-19;

WHEREAS, New York must work in conjunction with its contiguous states, in light of the significant risk posed to the health and welfare of all residents by the further spread of COVID-19 to the tristate area, to protect the progress made;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, in particular Article IV, section one, I do hereby order and direct as follows:

The commissioner of the Department of Health to modify the travel Advisory issued pursuant to Executive Order 205 to be communicated widely at all major points of entry into New York, including on highway message boards and in all New York airports, that advisory shall state that:

All travelers entering New York from a state which is not a contiguous state shall quarantine for a period of 14 days consistent with Department of Health regulations for quarantine unless:

For travelers who travel outside of New York for less than 24 hours, the traveler need not test prior to departure from the state, and does not need to quarantine upon arrival.

However, such travelers must continue to fill out the traveler form upon entry; and further shall take a diagnostic test on the fourth day after arrival in New York.

For any traveler who has traveled outside of New York for more than 24 hours, such traveler must seek testing prior to departure from that state, within 72 hours of departure, prior to arrival in New York.

The traveler must, upon arrival in New York, quarantine according to Department of Health guidelines for a minimum of three days, measured from time of arrival and on day 4 may seek a diagnostic test to exit quarantine. The traveler may exit quarantine upon receipt of the second negative test result.

The Commissioner may issue additional protocols for essential

workers, or for other extraordinary circumstances, when a quarantine is not possible, provided such measures continue to safeguard the public health.

This modified Advisory shall be effective at 12:01 a.m. on November 4, 2020, until rescinded by the Commissioner.

Any violation of a quarantine or isolation order issued to an individual pursuant to the Commissioner of the Department of Health's travel advisory by a local department of health or state department of health may be enforced pursuant to article 21 of the public health law, and non-compliance may additionally be deemed a violation pursuant to section 12 of the public health law subject to a civil penalty of up to \$10,000.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this thirty-first day of October in the year two thousand twenty.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

